

A National Treasure or A Stolen Heritage:

The Administrative History of Glacier Bay National Park & Preserve With a Focus on Subsistence

by
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for
Sealaska Corporation
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Position Paper on

**THE ADMINISTRATIVE HISTORY OF
GLACIER BAY
NATIONAL PARK & PRESERVE
WITH A FOCUS ON SUBSISTENCE**

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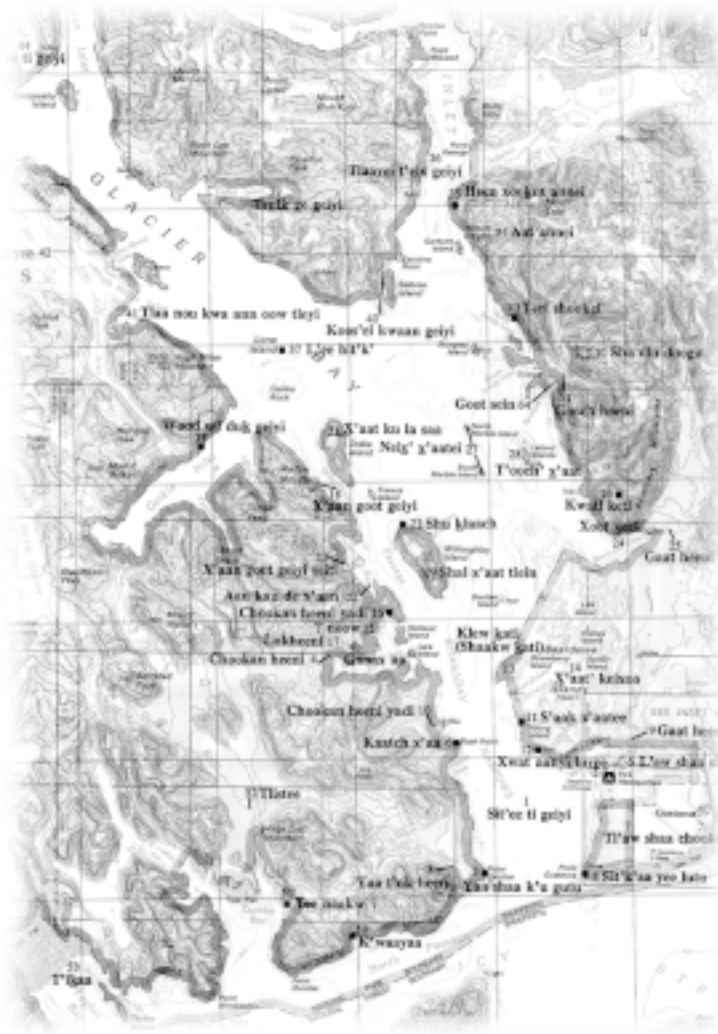
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Cover map: detail of "Tlingit Place Names for the Glacier Bay Area," draft dated May, 1993. The map is a joint project by the Alaska Dept. of Fish & Game, Division of Subsistence, the Hoonah Indian Association, and the Huna Traditional Tribal Council of Elders. Special recognition to the late Katherine Mills for assistance with transcription of Tlingit place names.

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FORWARD

Some 250 years ago, ice advanced over Glacier Bay, forcing the Huna Tlingits off this abundant land that had sustained them for 9,000 years. Everyone evacuated ahead of the glaciers, save for one young woman named Kahsteen. And she was a defiant woman who was bent on staying put. The glacier overtook her, taking her life, but her spirit remains alive today in Glacier Bay.

To Kahsteen, nothing so small as an invading icefield was going to dispossess the Huna Tlingits from their ancestral home. She would die in the glacier's grip for sure, but her bones would mark the clan's claim to Glacier Bay when the ice again receded. And it always does.

The ice began advancing again in 1925, this time in the form of a cold bureaucracy that was every bit as determined to eradicate human life in this estuary as were the glaciers that swallowed Kahsteen. This was the year that President Calvin Coolidge established Glacier Bay National Monument by proclamation. On the day that this edict was issued, there began a 75-year story of which no American can be proud.

It is the story of the National Park Service's effort to rid Glacier Bay of its indigenous hunters and fishermen. And I was asked to tell that story recently by Alaska's Senator Frank Murkowski, the Chair of the United States Senate Energy and Natural Resources Committee.

I ought to know the story well. I am a member of the Tlingit Nation, the Eagle Tribe, Kahsteen's own Chookaneidi clan, and the Ice House. It is my job to know and pass on the history of our people — even the bad parts. Maybe especially the bad parts.

But I couldn't answer Senator Murkowski. And so I returned to my Native village to speak with the elders who had persevered over those 75 years when our people were lied to, shot at and, worst of all, ignored. But many had died, and others were frail. And so, like too much of Native American culture, these memories were dying with the people who had lived them.

The story, nonetheless, needed telling, both as prologue to a fair legislative settlement of this miserable conflict, and as contemporary proof that America's imperial policy towards Native Americans over these past 200 years is not entirely dead—at least in the hearts of some.

And that is why Sealaska Corporation commissioned the history of Native subsistence use in Glacier Bay that you are about to read. Sealaska is the regional corporation for Southeast Alaska established under the Alaska Native Claims Settlement Act, or "ANCSA," and the issue of Native subsistence in Glacier Bay burns in the hearts of our 16,000 Tlingit, Haida and Tsimpsian shareholders.

Obviously, we're not the first to broach the controversial topics of Glacier Bay and Alaska Native subsistence rights. Others, like historian Theodore Catton, came before us. But what we sought was a tour of the entire horizon—one that told the tale from beginning until now, from both combatants' records and

memories. For that, we could find only parts and snippets. To weave a seamless history from those threads, we ultimately compiled a heap of reports, papers and archived records that grew to two feet high.

And now we can answer Senator Murkowski's question, and hopefully yours as well. You will likely find each chapter of this story sorrowful in its own right. But to me the telling of this history in its entirety reveals two fundamental failures: a dereliction of duty, and a bad case of tunnel vision.

The dereliction of duty has been in Congress. The current and long-standing policy of the United States is to cleanse Glacier Bay of traditional Native use and occupancy. America has dispossessed Indians before, and this is no revelation. The twist in Glacier Bay's case is that Congress has left the dirty job of developing and implementing that policy of dispossession to bureaucrats. The United States Constitution entrusts Congress with special responsibilities in its dealings with Native Americans, and Congress, in turn, customarily takes that duty seriously. If Native rights are to be extinguished, Congress itself pulls the trigger. But here, the National Park Service has been given virtually free rein to first shape, and then carry out a national policy of eradication.

All of which means that the Glacier Bay debate continues in the shadows, where the public, for the most part, can't see or hear it. Conservation organizations, for example, have long understood and long supported the integral role of traditional subsistence use in Alaska's ecosystems. But by-and-large, their members have been shut out by this closed-door decision-making process, and we have missed them.

The failure of the National Park Service is due to their tunnel vision. It is apparent that the Glacier Bay subsistence controversy is rooted in the arbitrarily narrow niche that Glacier Bay fills in our national park system. Most national parks serve a mix of needs. That is why for example, Congress expressly allowed traditional subsistence uses in eight of the 10 new or expanded Alaska national parks in the 1980 Alaska National Interest Lands Conservation Act ("ANILCA").

But traditional subsistence uses in Glacier Bay were not expressly allowed in ANILCA, for reasons that date back over 100 years to John Muir, who saw Glacier Bay as a laboratory where one could study the rebirth of life after glaciers receded.

The rub is this: a laboratory demands sterile conditions, free of contaminants that might bias the findings. And the National Park Service's attitude is that the the Huna Tlingits are contaminants.

I'm afraid that this attitude won't change over time. Proof enough of that is the token berry-picking and salmon catching that a few Hoonah residents are allowed to undertake in Glacier Bay today. Make no mistake — this miserly dispensation is motivated neither by enlightenment nor compromise. Nor does it signal that the National Park Service finally understands what Tlingits mean when they call Glacier Bay “the main place for Hoonah People” and “the Hoonah breadbasket.” Glacier Bay defines the soul of the Huna Tlingit culture.

No, what's happening today is a research project, and the occasional Tlingit who is let in the park to pick berries is just a laboratory rat.

Congress in its wisdom will eventually change this policy of dispossession, and I hope this paper speeds up that process. For seven decades, Huna Tlingits have petitioned Washington at every turn, asking for the right to continue that which we've done for nine millennia. I myself have testified seven times before Congress on this issue, and I suspect I'll do so again. We are persistent. We must be. We have a pact with Kahsteen, our clan's grandmother, who stayed behind and perished under the ice so that we might fight for these rights today.

Kahsteen, I think, will be happy with the ultimate outcome, because as I've said, all glaciers eventually recede. *Yéi áwé.* †



ROBERT W. LOESCHER

President and Chief Executive Officer
Sealaska Corporation

Tlingit name: Kaa Toosh Tú
December, 1999

† (That's the way it is.)

INTRODUCTION

The administrative history of the evolving political and legal framework that guided the management decisions for subsistence uses in Glacier Bay National Park exemplifies a resolute agency trying to establish and fulfill its mandate, which it interprets to require an aboriginal people's way of life fit into a constantly changing view of what nature should exist as, in order to continue to be who they are and live their way of life on the land they have lived for generations. The present status precludes subsistence uses in Glacier Bay National Park. For this reason, the issue brings out strong emotions by the Native Tlingits of Hoonah.

Glacier Bay was proclaimed a National Monument on February 25, 1925. Presidential Proclamations enlarged the boundaries on April 18, 1955, and December 1, 1978. Glacier Bay National Monument was established as a National Park (3,224,794 acres) and Preserve (58,406 acres) on December 2, 1980, and 2,770,000 acres designated wilderness. Biosphere Reserve status was designated in 1986 and designated a World Heritage Site in 1992.

The agency archives provide the administrative history of this issue and a number of papers or reports have compiled and analyzed the historical documents. (Appendices 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10) In two books titled Land Reborn; A History of Administration and Visitor Use In Glacier Bay National Park and Preserve (1995) (Appendix 11), and Inhabited Wilderness; Indians, Eskimos and National Parks in Alaska (1997) (Appendix 12), historian Theodore Catton provides a comprehensive analysis of the history of the politics that induced a transformation of government policy that began with the failure of the National Park Service to recognize tribal claims of subsistence uses, to Congressional promises of protection of subsistence issues, to the present policy of ultimately excluding subsistence uses from Glacier Bay National Park. Catton's analysis provides the framework for this paper and is acknowledged throughout. Citations to Catton provide extensive historical documentation in footnotes.

On December 2, 1980, Congress enacted the Alaska National Interest Lands Conservation Act or ANILCA, which added 10 new units to the National Park system in Alaska. ANILCA also made additions to three existing national monuments (including Glacier Bay National Monument) and changed them to parks. The new park lands in Alaska had a combined area of more than 51,000,000 acres, 13 percent of the state, an area greater than the entire state of Washington. In eight out of the 10 new parks, subsistence uses are permitted by law. But is not allowed in Glacier Bay National Park, which raises the issue of how the modern subsistence hunter fits into the National Park scheme for preserving nature, and how the National Park concept of preservation meshes with cultural values of Alaska Native people.

The primary objective of National Parks, it has often been said, is to preserve outstanding examples of America's natural and cultural heritage in public ownership for the use and benefit of all. The National Parks are managed upon the principle that the areas are sanctuaries for wildlife, and preserving these areas in a natural condition is the goal.

The basic assumption underlying subsistence use is that it is primal, compared with other kinds of resource uses, and therefore ought to be given priority. Subsistence use is an outgrowth of aboriginal culture, but is not the same thing as aboriginal hunting, fishing and gathering. Subsistence users know from experience that legal definitions are devised to fix and circumscribe their privilege/rights as well as protect it.

They object to limitations on their subsistence privilege/rights because change and adaptation are at the very heart of subsistence; indeed, these are basic attributes that subsistence shares with the aboriginal hunting, fishing and gathering patterns from which it descended. Moreover, subsistence users chafe at legal definitions because they resent the loss of privacy that comes with enforcement. Catton calls the unique land management scheme that marries subsistence use to the National Park idea as "inhabited wilderness".

Glacier Bay National Park and Preserve is a cultural creation. The American people invented the National Park idea to preserve large pieces of nature, that nature itself is a culturally defined concept imbued with different meaning

by different people. Concepts of nature not only vary among people and cultures, they have changed significantly over time. Scientists also regard Glacier Bay differently today than they did when they first encountered it.

Since all these groups of people — Huna Tlingits, non-Native resident Alaskans, mass tourists, recreationists and scientists — hold changing concepts of nature, it is not surprising that the NPS reinterprets the purpose of Glacier Bay National Park and Preserve and reorients its management goals from time to time also. In essence, the administrative history of Glacier Bay National Park and Preserve consists of the agency's continual renegotiation of the park's cultural meaning with all of these different groups of people.

Every unit in the national park system presents unique challenges for management, and Glacier Bay National Park and Preserve has presented them in abundance. First was the question of Indian land title. Outside Alaska, nearly all units of the national park system were created from lands in which aboriginal human activities were previously terminated. The United States subdued Indian tribes, coerced them into ceding most of their lands, and establishing Indian reservations with what remained. The ceded lands became public domain for a period before they became national parks.

In this way, Indians were severed both legally and ecologically from their past relationship to national park lands. In Alaska, the United States did not pursue this rather paradoxical pattern of recognizing Indians' aboriginal title as it took their land; instead, it offered Alaska Natives free homesteads, schooling, and land title to their permanent winter village sites. As a result, the Park Service acquired an area to which an aboriginal people, the Huna Tlingits, had never relinquished their hunting, fishing and gathering claims. This was an anomalous and ambiguous situation for which there was no institutional management framework.

The administrative history reflects three distinct time frames in which the park's purpose, which guided management decisions, was influenced and evolved to the present day management. An analysis of these changes follows.

When the Native people of the village of Hoonah encountered a Russian explorer in Icy Strait in July of 1741, they could never have envisioned that these

“visitors” to their land would bring about changes resulting in a lethal challenge to their culture, and question their role in the environment in which their past generations lived. That one day they would ultimately preclude the present and future generations from the fundamental tenet of their culture-subsistence uses. It began a series of negotiations between wildlife preservationists and wildlife inhabitants over humankind’s place in nature.

PART I SCIENCE AND MONUMENTALISM, 1879-1938

Indigenous People

The Tlingit and their predecessors have most probably lived in the Glacier Bay and Icy Strait area for the past 9,000 years. Evidence of early human occupation of the Glacier Bay area is available from the site at Groundhog Bay near Point Couverden, indicating the aboriginal presence that closely followed the end of the Wisconsin Glaciation period.

Glacier Bay has long been an important area for subsistence hunting, fishing and gathering by the Huna Tlingit in northern Southeast Alaska. Historically, Glacier Bay and much of the surrounding area was owned by Tlingit clans who have inhabited and used the bay for at least the past 2,000 years as glacial advances and retreats permitted. Traditional activities include harvest of wild food such as salmon, halibut, shellfish, goat, seals, birds and bird eggs. Tlingit legends, in the form of clan-owned stories that are still told today, provide the accounts of occupation of the bay during the post-Wisconsin Glaciation period.

In the period from contact to about 1880, the Huna Tlingits lived in two to four villages. The principle village was at the present site of Hoonah, which in the late 1870s was estimated to consist of 13 large houses with about 600 to 800 people. Other villages and forts were located throughout the Glacier Bay area.

The Tlingits were a trading people and their location gave them access to different resources. Their large canoes made possible trading expeditions over long distances. Moreover, the coastal environment generally provided such an abundance of resources, particularly salmon, that the Tlingits could build up stores of food each year and pass the dark, wet winters in their snug houses. Thus, they were sedentary gatherers, with a relatively high population density, some specialization of labor and a rich material culture.¹ (Appendix 13)

When stores ran low in the early spring, a Tlingit family group would pack the canoe and venture out of the village, beginning with a seal hunting expedition of several weeks duration. By April, the group would be gathering green plants and edible roots or the potatoes they had planted on some sunny hillside

the previous year. In May, they might go on a trading expedition, followed in June by berry picking and gathering bird eggs. In late June and July, during the first salmon run, the men fished and hunted seal while the women dried the meat and sealskins and rendered the seal oil. August was devoted to more food storage and in September they followed the second salmon run. Late fall was a time for hunting and trapping. Finally, as winter approached, they returned to the village for a season of potlatches, trading expeditions, crafts and repairing the fishing gear.

The Tlingit's view of nature was essentially animistic. All physical objects — glaciers, mountains, heavenly bodies — had spirits. Human beings made their way in the world by treating these spirits respectfully, either communicating with the spirits directly or through their shamans. Animals had a prominent place in this spirit world; they possessed souls essentially like those of human beings, in that their souls inhabited the body, and could be reincarnated after death. It was in their relationship to animals, particularly the animals they hunted, that Tlingits most clearly demonstrated a religious or devotional view towards nature.

The most important consequence of European contact was the dependent relationship that Tlingits gradually developed toward the fur companies as they became conditioned to modern manufactured goods. To obtain the money with which to purchase goods from European and American manufacturers, Tlingits hunted seal, otter, hair seal, deer and other animals for the commercial value of their furs and hides. These economic pressures notwithstanding, the Tlingits moral relationship to the natural world predisposed them to patterns of resource use that could be labeled as conservationists. Tlingits imposed rules against visiting certain seal or sea otter hunting grounds during the spring pupping season. Tlingits used all parts of the animals they killed, and killed only what they could consume. This practice was not due to concern about the supply of game and the public welfare, but because they sought to earn the animal's favor in order to bring themselves luck and future hunting success.²

The first evidence of problems between whites and Natives over the use of the area's resources comes from a speech on December 14, 1898 by the Chief of

Hoonah to the Governor of Alaska, which stated, “We make our living by trapping and fishing and hunting, the white men take all these places away from us; they constantly interfere with us. And when we talk to those white men, they say the country does not belong to us, belongs to Washington. We have nothing to do with that ground. All our people believe that Alaska is our country.”³

The process of acculturation acted upon Tlingit subsistence use patterns in a multitude of ways. The Huna Tlingits found many elements of their culture under assault in the late 19th and early 20th centuries and the decline of their subsistence hunting, fishing and gathering must be placed within this broad context. Acculturation took many forms: from exploitation of new opportunities such as the fur trade offered, to assimilation of American ideas and cultural practices such as the missionaries introduced, to outright renunciation of certain Tlingit ideas and cultural practices that the white society had stigmatized.

The effects of acculturation on subsistence were relatively indirect, resulting from a shift in economic priorities and a trend toward “fixedness”. The fact that native rituals associated with hunting and fishing and food preparation largely escaped direct attack by the dominate culture in the same way that Native living arrangements, religion and social relations came under assault, may have reinforced the cultural meaning of those activities.⁴

Occupancy and Use of Glacier Bay

Icy Strait and Glacier Bay were an integral part of the Hoonah Territory. Within Glacier Bay, areas adjacent to tidewater glaciers were often the site of seal hunting camps, while the lower reaches of the bay provided the greatest overall diversity of wild foods. Of all this area, Bartlett Cove is said to have been the most important location for the procurement and processing of foods. Place names for Glacier Bay reflecting the significance of this area, have been translated as “the main place for Hoonah People” and “the Hoonah breadbasket.” Nearly every item in the domestic economy of these Icy Strait residents could be obtained in Glacier Bay.

At the time of contact, concepts of property and ownership, including ownership of land and of hunting, fishing and gathering areas, were well estab-

lished among the Tlingit. Glacier Bay was owned by the Chookaneidí and Wooshkeetaan clans, people who now reside primarily in the village of Hoonah. Outside the bay, coastal areas were apportioned among several other Huna clans. Sockeye salmon streams were especially highly valued food-gathering locations, and sockeye streams in the vicinity of Hoonah were divided among at least three Huna clans: the Chookaneidí, T'akdeintaan and Wooshkeetaan.

In many cases, resource territories were shared among the clans, as appears to have been the case in the Inian Islands, which the Chookaneidí clan owned, occupied, and used to dry halibut, gather seaweed and hunt seal and deer, but which was shared with the T'akdeintaan clan. In addition to salmon streams, resource territories included hunting areas, berry and root gathering areas, hot springs, trade routes and shellfish grounds. Claims to resource areas often were codified in the form of totem poles and potlatches commemorating ownership of important sites and substantiating the claim of an individual clan head to the territory that the clan claimed.⁵

Conflicting Concepts of Land and Property Ownership

Exploitation of natural resources in the Pacific Northwest by nineteenth-century explorers and colonizers eventually resulted in conflicts when the newcomers either ignored or disputed the established Tlingit systems of land and resource ownership.

Conflict over property and ownership concepts were first illuminated in 1867 with the United States' purchase of Alaska from Russia. The Tlingit strongly objected to the sale and made it clear that the purchase was impossible, since the Russians did not own the land in the first place. On the contrary, it was clear to them that they had allowed the Russians to occupy a piece of the lands in the vicinity of Sitka. The Russians owned trade rights only. The Alaska purchase, however, was soon to be characterized by a strong military presence designated primarily to assert ownership rights and to protect American citizens in their use of the new Territory's resources.

Commercial exploitation of the salmon resources by the new wave of American entrepreneurs began the next phase of conflict over property and re-

source ownership in the region. Canneries and mining began to be established in Southeast Alaska in the period from 1867 to 1878, and initially they depended on maintaining friendly ties with the acknowledged Tlingit owners of productive salmon streams. One report indicates that the head of the Takdeintaan clan in Hoonah, trustee of sockeye systems on the north shore of Icy Strait west of Glacier Bay, had accepted a fee for the land and fish that would be needed by the cannery in Dundas Bay. The fee was to be paid annually, and members of the Takdeintaan clan fished in the streams and sold fish to the cannery.

This period of minimal conflict and relatively modest resource exploitation was short lived. The bombardments of both Kake in 1869 and Angoon in 1882 by United States Naval vessels were calculated efforts to assert military authority in the region. These events additionally asserted the rights of the American citizens to exploit salmon as a seemingly inexhaustible common property resource. By the mid-1890s, recognition by canneries of clan ownership and property concepts began to deteriorate, and the advent of the U.S. Government “gunship policies” effectively inhibited Tlingit efforts to protect their resource and property rights. The commercial salmon fishing and the Pacific canned salmon industries expanded rapidly in this political climate. The mining industry also gained momentum in these years. The first gold mining camp in Alaska was established at Windham Bay in 1878, and by the end of the century large gold deposits had been discovered in Juneau.⁶

Federal Land Policy, the Huna Tlingits and Creation of Glacier Bay National Monument

John Muir’s expedition of 1897 began the scientific interest in and study of Glacier Bay. Muir had found a land reborn from the ice, pristine, free from the footprints of “Lord man”. Following Muir was William Cooper, an ecologist whose biological studies of Glacier Bay prompted the Ecological Society of America in 1923 to propose that Glacier Bay and its environs be established as a National Monument, managed by the National Park Service.

Whereas Muir had portrayed the Natives as being out of their natural element and fearful of glaciers, Cooper screened the Natives out of his view of the

environment entirely. The Ecological Society proclaimed Glacier Bay to be “totally uninhabited and underdeveloped”, a consideration they believe argued favorably for the prompt action on the Monument proposal. The Ecological Society pushed for the establishment of a National Monument rather than a National Park, as the former could be created by Presidential Proclamation, while the latter required an act of Congress.

In the early 1920s the United States government sent an envoy to meet with people specifically to discuss a government proposal about Glacier Bay and to obtain consent to make Glacier Bay a National Monument. Attending this meeting were the spokespersons for the Chookaneidí, Takdeintaan, Kaagwaantaaan and Wooshkeetaan clans, all of whom lived on and used the waters and lands of what is now named Glacier Bay and Glacier Bay National Park.

At this meeting, representatives of the federal government explained that the government was going to make the ancestral homeland of the Huna Tlingit people a National Monument, but they would still be able to continue their customary and traditional use of the resources of this area.

They were assured that they would be able to continue to hunt, fish, gather berries, harvest seaweed and otherwise carry out their traditional subsistence activities. The government explained to them that every use they made of these lands and waters prior to the establishment of the monument would continue after its establishment. After this was explained to their spokespersons, and they explained it to their respective clans, all four clans agreed to the federal government’s proposal.

The withdrawal of the area around Glacier Bay in 1924 pending a study by the US Department of the Interior on the merits of the Monument Proposal brought howls of protest from the white citizens of Southeast Alaska.

The Secretary of the Interior sent George Parks to survey the proposed Monument. He canvassed homesteaders, fox farmers, miners and foresters about the natural resources contained in the area. His report consisted largely of an inventory of the area’s economic values. The boundaries of a temporary withdrawal embraced about a tenth of the land area of Southeast Alaska containing several patented homesteads, mining claims, canneries, fish traps and Native

allotments. Parks was not convinced that the entire should area be preserved as a Monument, as there were areas that were “potentially valuable for future development”. He proposed to reduce the boundaries and his recommendation was ultimately followed.⁸

President Coolidge’s Proclamation of Glacier Bay National Monument on February 26, 1925, was a victory for conservation and encompassed 1,820 square miles, becoming one of the largest areas in the National Park System. (Appendix 14) Together with Katmai National Monument established in 1918, these two Alaskan preserves redefined the scope of the National Monument designation from small areas centered up on archeological ruins or specific geological features to large natural areas that were essentially the same as National Forests.

The Federal Government established Glacier Bay National Monument without regard to the biological or legal implications of Native use of the area. What no one recognized or acknowledged in 1925 was that this victory for conservation was a defeat for the Natives of Hoonah, whose aboriginal territory and contemporary hunting, fishing and gathering grounds extended the full length of Glacier Bay. Neither Cooper and the conservation organizations that led the campaign for the Monument, nor anyone in the US Department of Interior, gave thought to the Natives of Hoonah and their seasonal use of the area for food gathering.

That the campaign for Glacier Bay National Monument virtually ignored the Native claim in Glacier Bay is not really surprising. Conservation groups were experienced in battling agricultural, mining and timber interest, but seldom had they vied for Indian lands. By the time the preservation movement gathered momentum at the turn of the century, virtually all Indian groups in the trans-Mississippi west had been forced onto Indian reservations, having ceded most of their former homelands or lost them in war with the United States. Most National Parks were created from public domain or National Forest lands many years after the Federal Government had extinguished what was known as “aboriginal or Indian title”. Only in Alaska did the Federal Government establish National Park lands before extinguishing aboriginal title.⁹

The establishment of Glacier Bay National Monument in 1925 was fundamentally a compromise between preservationists and the developers. The Bu-

reau of Education, which had jurisdiction over Alaska Native affairs at this time, was not consulted and had nothing to say on the matter. Ironically, they summarily dismissed the Natives role in the ecology of Glacier Bay even while they touted the scientific study of ecological succession as one of the major reasons for establishing the Monument. The Native's role in the ecology of Glacier Bay should have been of vital interest. The scientists who were most familiar with Glacier Bay knew that Natives utilized the resources there. But no one addressed the ecological consequences of prohibiting or approving Native hunting, fishing and gathering in the area once it became a National Monument.

The preservationist position taken by the American Association for Advancement of Science (AAAS) was characteristic. Noting the "undisturbed condition" of the coastal forest and the regenerative plant growth around Glacier Bay, the AAAS declared the highest purpose for this land was that it be "permanently preserved in absolutely natural condition". One would infer from this AAAS resolution and numerous other statements by conservation groups, that Natives came and went in Glacier Bay without leaving the slightest impression on the environment. This was a philosophical incongruity that these conservationists left for a later generation. As with the problem of the Native Land Claim, conservationists' inexperience with Indian lands was telling. Unable to fit Native use of the area into their frame of reference, they simply disregarded it.¹⁰

The Natives of Hoonah left no record of their reaction to the creation of Glacier Bay National Monument. It is not even clear that they were informed of it. With their limited command of the English language in 1925, it is conceivable that many Huna Tlingits remained ignorant of the Monument, or else assumed that it was of no consequence to them. If they were aware, did NPS jurisdiction mean anything to them? Again, there is reason to doubt it. The land surrounding their village belonged to the Tongass National Forest, yet Forest Service jurisdiction was of no practical significance to them in the 1920s. They may have assumed that the National Parks Service jurisdiction would be equally benign. Whether Natives hunted in ignorance of the Monuments existence and the NPS law or in contempt of the NPS's paper jurisdiction is unclear, but they certainly ran no risk of arrest.¹¹

PART II HABITAT PROTECTION, 1939-1965

The Extension of the Monument

There is no evidence of any real conflict over the use of the bay until the 1940s, and it may be assumed that the limited visitation, scientific study or government regulation that did occur in the early years of the Monument had little effect on food gathering or other activities of the Tlingit.

On April 18, 1939, President Roosevelt signed the Proclamation that almost doubled the Monument's size by transferring more than 1,000 square miles of land from the Tongass National Forest to the Glacier Bay National Monument (Appendix 15). The extension showed a greater emphasis on biology and increased the significance of Glacier Bay National Monument as a wildlife sanctuary, a place where birds and mammals could thrive in a natural setting, undisturbed by human activities. This natural setting, in the parlance of the new science of ecology, was called habitat. Park Service wildlife biologists determined in the 1930s that the most effective way to preserve park wildlife was to protect habitat. Thus, National Parks and Monuments assumed prominence in the American people's growing demand for wildlife sanctuaries. It was primarily for the purpose of providing a sanctuary for the Alaska brown bear that the monument was extended in 1939. Protection of habitat became the new policy for administration of Glacier Bay National Monument.

There was an incipient conflict here between the desire of the National Park Service to present tourists with an opportunity to observe bears at close range, unmolested by people, and the customary use of the same salmon streams by the Huna Tlingits.

Both Dixon and Coffman who wrote the final report that led to the Presidential Proclamation were well aware of Native use of the area, yet they downplayed the Native presence in their report. They distorted the Native's place in the ecology of the area. They demonstrated their bias for the Native presence in the way they denigrated Native landholdings. They merely listed Native land-

holdings without determining how they would be dealt with. The authors did indicate that “certainly no trapping can be permitted within a National Park or Monument, and it will be necessary for Indians to adjust their trapping areas elsewhere so as to make room for the new who may be excluded from areas used by them in the past within the proposed boundaries.” However, there was no discussion of this between the NPS and the people of Hoonah or the Bureau of Indian Affairs prior to the President’s Proclamation of 1939.

Their failure to properly acknowledge Native property rights created a false impression of the human record in Glacier Bay and false perception of the Tlingit’s place in nature. This was consistent with Muir and Cooper’s dismissing the Native presence in the area as having no ecological consequence and became a part of the NPS’s own construction of the natural history of Glacier Bay. In doing so, the NPS began to treat the Tlingits as the ecological equivalent of “squatters.”¹²

Dispossessing the Natives and the Privileged

Native rights and NPS goals were set in opposition from the day the Monument was created in 1925, but it appears that NPS officials did not concern themselves with these issues until the boundary extension of 1939. After World War II, a counsel to the Park Service would write, “the National Park Service has been but little concerned in the past with Alaska Native claims to land, fishing and hunting rights and, consequently, has virtually no information on the matter.”¹³

The earliest known record of Tlingit concern is a 1937 letter from a BIA official to the school teacher in Hoonah which states in part, “While in Hoonah sometime ago, a number of Natives took up the question of hunting and carrying firearms within the boundaries of Glacier Bay National Monument.” The official went on to cite a general land office circular that described the Monument as a wildlife sanctuary and specifically prohibited “firearms, traps, seines and nets” in the Monument. This official concluded neither the killing of wildlife nor the carrying of firearms within the Monument would be permitted. Since the NPS made virtually no law enforcement effort in the area before 1939, it is not surprising that Tlingits focused on other threats to their hunting, fishing

and gathering grounds. The Park Service theoretical commitment to wildlife protection in Glacier Bay meant far less to Tlingits than the very real encroachments on their resource base by commercial fish traps and white trappers and hunters.¹³

The Huna Tlingit's relationship to Glacier Bay after 1939 cannot be understood apart from the efforts of whites to impugn it. Native use of the area would be under assault not only from the NPS, but from local whites who vigorously opposed any Native privileges in the area. The plan for studies, which were to formulate a wildlife policy, were never implemented due to drastic cuts in the NPS budget during World War II which prevented the NPS from establishing a clear policy on the privileges accorded the Huna Tlingits in Glacier Bay.

In the meantime, local whites interpreted the NPS's indecision as their cue to run the Natives out of the area themselves. Huna Tlingits complained that their seasonal cabins were smashed and posted with "Keep Out" signs and that they themselves were driven back to their boats by gunshots on more than one occasion. NPS officials were not blameless for these actions, as the then Superintendent did not clarify the Native privilege, but rather told the individual "Should instances of misuse or damage come to your attention, we shall appreciate being notified. Your judgment must dictate the extent to which you may go to remedy personally a possible unsatisfactory situation." Thus, he was actually encouraging the displacement of the Natives from the area. Another individual had "instilled a healthy respect for the law in many would be poachers in his vicinity, and has acquired a reputation among the Indians of the Icy Strait area, that is legend." In 1948 the NPS custodian was more blunt when he reported that an individual had allegedly sent several parties of Natives "on their way at the point of a gun" and added "if that is true, he is undoubtedly an asset to the area".¹⁴

While the Presidential Proclamation of 1939 purported to transfer land from the Tongass National Forest to the Glacier Bay National Monument, the Tlingits did not see it that way. Indeed, given the National Monument prohibition against hunting, it was the most overt act of dispossession in their experience.

NPS officials failed to consider that the Native use of the area might involve a tribal claim. They viewed the problem as something that concerned "vari-

ous individuals or families among the Indians” rather than a tribal claim.¹⁵ The BIA was caught unaware by the President’s Proclamation and the assistant commissioner wrote the following to the BIA superintendent:

Obviously, this office should have been consulted before the department approved the Extension of these boundaries. Now that the Extension has been made, what should we do? Can trapping areas be set aside elsewhere for these Indians? How important to the livelihood are the trapping privileges of which they will otherwise be deprived? I shall appreciate a full report.¹⁶

NPS and BIA officials met and agreed on some preliminary arrangements in which the Natives were permitted continuance of “normal use” of the wildlife in the Monument. The NPS’s position was that the arrangements were temporary “until a definite wildlife policy could be determined upon the basis of a field study and a substitute source of income could be provided for them.”¹⁷

BIA officials made no effort to include Huna Tlingits in these discussions and held no meetings with Huna Tlingit representatives or the village at large.

The NPS made its intentions clear when, in 1944, it entered into a cooperative agreement with the US Fish and Wildlife Service for the patrol of the Monument waters.

The status of the Huna Tlingits in the Monument flared up again in the winter of 1946 when two Huna Tlingits were caught in Glacier Bay with traps on their boat by the Fish and Wildlife service. In September of 1946, the Superintendent of the Bureau of Indian Affairs made a statement to the effect that he and his family were being dispossessed of their property rights in Glacier Bay.

As a result of these conflicts, a meeting was held in Washington where an agreement was reached that affirmed that the Huna Tlingits had special privileges in the Monument to hunt hair seal and gather gull eggs and berries. Far from settling the issue, the Park Service came to regard this agreement as the point of departure for the long and troubled relationship with the people of Hoonah. The Huna Tlingit’s position had been bolstered by a report from the Bureau of Indian Affairs Chief Counsel, Theodore Haas and anthropologist Walter Goldschmidt, who had investigated Tlingit aboriginal claims in the area that

summer. The report found the residents eager to talk about their “summary expulsion” from Glacier Bay. It also established the record of vigilantism had occurred in the Monument during World War II.¹⁸

The report by Goldschmidt and Haas, Possessory Rights Of The Natives Of Southeast Alaska (Appendix 16), finally lured the NPS to the fact the Huna Tlingits had a tribal claim in Glacier Bay National Monument. The report defined three key areas in the Monument where Huna Tlingits could claim “possessory rights” and placed most of the Monument within the area of their aboriginal claim. After reading the report, NPS Chief Counsel advised the director that the Native’s possessory rights appeared to be a matter of “primary importance.”¹⁹

NPS officials would later try to characterize the 1946 agreement as a temporary expedient made in light of Hoonah’s dire economic situation after World War II. This interpretation of the agreement suggested that the Huna Tlingits must demonstrate economic need each time the agreement came due for reconsideration, but this was a deliberate misreading of the circumstances surrounding the agreement.

First and foremost, BIA officials had impressed upon the NPS director the likelihood that the Huna Tlingits did, indeed, have possessory rights in Glacier Bay National Monument. The fact that the NPS was not happy with the agreement and wanted to find a way to wiggle out of it is expressed in a letter from the NPS Western Regional Office, which put the matter rather tactfully but forcefully in a letter stating, “while we admittedly are not familiar with what pressure may have been exerted to bring this action about, we are frank to say that we believe the subject is worthy of further consideration. It is probably too late to rescind the decision without embarrassment, but we believe a thorough investigation of this situation should be made before the agreement is extended beyond 1950.”²⁰

This led to NPS Biologist Lowell Sumner’s study and report on the Native hunting privileges in Glacier Bay in the summer of 1947.

Sumner’s cursory investigation and report displayed the NPS’s strong predisposition to ban Native hunting in the monument. Sumner’s few days in Gla-

Glacier Bay in late June allowed only brief appraisal of the effects of Native hunting and egg collection on the animal populations in the Monument, much less a reliable assessment of the populations sizes and trends of the various species that most concern the NPS. His contacts with Hoonah seal hunters were minimal. His report contained a scant seven pages of text. Nevertheless, it was a strongly worded condemnation of the present policy. Sumner's report was flawed in many respects, however it was influential within NPS circles.²¹

By the 1946 agreement, the Park Service had acknowledged that the Tlingits had some sort of moral claim to the area based upon historical use and cultural ties. Thus, NPS officials would struggle with this issue over and over, working back through the tangle of legal, cultural and economic factors that had formed the basis of the agreement in the first place.

The basis of the 1946 agreement was to allow Native subsistence uses in the area until biological studies could be made to determine the impact. Although the 1946 agreement set out the parameters for subsistence uses, it is clear from the record that the people of Hoonah were as confused, frustrated and displeased by the situation as the National Park Service was. The years following the agreement were marked by a number of problems with its implementation. The agreement was to last for four years and in preparation for its expiration, the NPS recognized the need to acquire more information with which to evaluate the situation when it came up for reconsideration in 1950. It was recommended that Biologist Adolph Murrie be assigned to a study however, he was not available due to his work on a study of Mount McKinley National Park. As a fall-back, the NPS decided to assign one seasonal ranger in Glacier Bay for the summer of 1950. With this assignment, the NPS's approach to Native hunting definitely shifted from biological investigation to law enforcement.²²

The way the NPS handled the need for a study in Glacier Bay and the need for a study in Mount McKinley National Park shows a marked contrast between the two investigations, which NPS officials studiously ignored at the time, showing the bias with which NPS officials approached Native hunting — even from a supposedly objective biological perspective. The comparison also suggests that the inadequacy of Glacier Bay's study could not be attributed solely to budgetary constraints.

The sad lesson in all of this was that NPS officials framed their analysis of the problem so narrowly that the Native's seal hunting privilege was soon reduced to a matter of law enforcement. No one in the NPS even touched on the possibility that by eliminating the indigenous people from Glacier Bay, the NPS was itself altering the natural conditions. They merely assumed that the land would be better off if the wildlife was afforded full protection from hunting.²³

The purpose of the ranger's assignment in Glacier Bay National Monument in 1950 was to establish a Park Service presence in the Monument and to gather information on Native use of the area for the anticipated discussions with BIA officials at the end of the year.

The 1946 Memorandum of Agreement simply lapsed in 1950 and the legality of Native hunting in the Monument became ambiguous. Huna Tlingits were outraged when they first learned of this situation in the summer of 1951. The Area Ranger also was confused and recommended "that the aboriginal rights of the Hoonah Indians be reviewed and the findings be made public as a means of conveyance for the enforcement of the rule(s) and regulations pertaining to them". However, the issue remained unresolved until February of 1954 when a new agreement was reached with the change that seal hunters had to obtain permits on an individual basis, and the permits as well as the agreement would expire at the end of 1955, subject to review and renewal. This agreement was renewed without changes in 1956, 1958 and 1960.

The ranger also noted the need for increased staffing in the National Monument to ensure proper management. The NPS did not follow-up on the recommendation, and instead appears to have adopted a "policy" to establish a token administrative presence in the Monument in the hope that the Native use of the area would just fade away.²⁴

NPS officials would later infer that the Native use of Glacier Bay waned in the '50s, that the NPS administrative presence was an effective deterrent to poaching, and that the NPS had time on its side because the younger Natives showed less desire for seal meat and seal oil. Their best evidence was a shrinking number of permits that Huna Tlingits requested after the NPS instituted a permit system in 1954. But the shrinking number of permits could just as easily have indicated

a declining spirit of cooperation on the part of the Natives. As one exasperated Superintendent wrote in 1953, “the old axiom that no law is worthy of a place in the statutes unless it can be enforced applies very well in this instance.”²⁵

Putting rangers in the Native’s way only tended to make the Native’s use of the area clandestine. The Natives hunted seals in the fall and the spring when the rangers were not on patrol. They ceased stopping at the ranger’s station to register for a permit. At the end of the ’50s, the Natives of Hoonah still had their special privilege to hunt seals and gather food in the Monument, but the NPS had no idea of the dimensions of that use. Instead, there was mutual suspicion and resentment on both sides.²⁶

PART III WILDERNESS PRESERVATION, 1966-1992

An End to Native Seal Hunting

As discussed, Native seal hunting in Glacier Bay National Park was authorized by agreement in 1946. The subsequent history of this authorization may be briefly summarized. The NPS and the BIA reevaluated and renewed the agreement in 1956, 1958, 1960 and 1962, with only two modifications. Issuance of permits by rangers was initiated unilaterally by the superintendent in 1960. The NPS took steps to discontinue the provision for Native hunting in 1964, but suspended this action under pressure from the BIA in 1965. The NPS made a second attempt to rescind the agreement in 1966, but failed again. The NPS finally terminated the agreement on April 4, 1974.²⁷

The primary objection to Native seal hunting by the Park Service was the threat hunters posed to the Glacier Bay seal population. Although the seal was the most abundant large mammal in the Monument and an important part of the marine ecology, the NPS had not made a reliable census of their number.

During this period of time, the State of Alaska placed a bounty on seals out of concern for protecting the fishery. In 1963 and 1964, the ranger noted a large number of seal kills in the Glacier Bay area. The NPS tried to compile statistics on the number of permits issued, kills reported, bounties paid and various indices of hunting pressure on seal population.

However, they found these numbers disturbingly difficult to come by. For example, the permit system required hunters to report kills within 30 days to the chief ranger, but the level of compliance was very low. NPS staff found “there is absolutely nothing in our files which indicates any attempts on our part to enforce the regulation or at least remind the hunters of their responsibility.”²⁸ Determining the amount of hunting pressure on the population was a matter of guesswork. In 1966, a biological assessment found it doubtful that the annual harvest exceeded the number of surviving pups each year. Present hunting pressure, one staff report stated, was not “sufficiently intense to cause a noticeable change in the seal population.”²⁹

When the effects of hunting on the seal population proved too difficult to quantify, NPS shifted their attention to the effects of hunting on wildlife viewing. NPS staff believed that Glacier Bay had the potential to join Yellowstone as one of the nation's great wildlife parks and stated "the great wildlife viewing opportunities in the well known wildlife parks in the system are the results of protection from hunting, and where necessary, closely supervised control problems." With this notation, they acknowledged that National Parks, in fact, change animal behavior insofar as animals lose their natural fear of human beings. Yet inadvertently, perhaps, they turn the tables on the hunter. They equate tame animals with natural conditions and hunters with unnatural conditions.

This may have been a minor point to NPS officials concerned with preserving nature for the enjoyment of the American people, but it was a bitter irony for the area's indigenous people. In effect, it created the illusion that Native hunters were newcomers to Glacier Bay. It also was in line with the NPS's traditional concept of nature. In this view, nature was the interaction of all living things in the absence of human influences. To preserve nature, National Parks had to insulate these delicate ecological relationships from human disturbance. In the NPS view, hunting was by definition a consumptive use and therefore an unnatural intrusion upon this environment.

NPS concerns over the biological and aesthetic considerations of seal hunting in Glacier Bay were not enough to convince the Secretary of Interior on either of these grounds that Native hunting seriously impaired the Monument's value. As a result, they resorted to a third objection — that the modern hunter was himself undeserving of the special privileges in the Monument that the government had earlier attached to his village.³⁰

This resulted in much bitterness. The NPS was made to demonstrate that seal hunting in the Monument no longer bore any relationship to subsistence needs, that Hoonah's claim of aboriginal rights in Glacier Bay was a mere pretext for commercial hide hunting. The Natives, for their part, found the actions by the NPS in the 1960s consistent with the acts of intimidation and vandalism that had forced a number of their people to abandon property in the Monument in the 1940s.

William Johnson, a Clan Leader, expressed his people's feeling about this period many years later: "The government just told us to get out of there."³¹

The NPS perceived a discontinuity between this kind of seal hunting and the aboriginal seal hunting practices of the hunter's forbearers. This discontinuity, NPS officials allege, ought to disqualify the market hunter from hunting in the Monument. They saw the market hunter as a sort of a fallen Indian. This NPS view overlooked the fact that Natives had been market hunting as well as subsistence hunting for generations. The inability to argue their case against hunting convincingly on biological grounds led NPS officials back to approximately the same set of economic and cultural questions that were posed 20 years earlier. And once again, the NPS found it impossible to make a convincing case for terminating the Huna Tlingit's privileges in Glacier Bay on the basis of cultural change.³²

Aboriginal Rights and Subsistence

The Park Service's difficulties with this issue were compounded by the fact that it was not strictly local, but involved a wider geographic area and various other government entities. Although the Huna Tlingit's privileges/rights in Glacier Bay had been framed as a local agreement, the legal foundations for these privileges was the Tlingit-Haida Land Claim Suit, and more broadly, federal policy toward Alaska Natives. The final settlement of that suit in 1968, together with a major reassessment of federal policy in the Alaska Native Land Claims Settlement Act of 1971, had profound implications for the Huna Tlingit's legal position in Glacier Bay.

Two other acts of Congress, the Alaska Statehood act of 1958 and the Marine Mammal Protection Act of 1972, also had repercussions in Glacier Bay. Somewhat apart from Native villages in the Monument was the dispute between the National Park Service and the State of Alaska over ownership of Glacier Bay. The state claimed the proclamations covered the land area only, leaving the bays and coastal waters in the public domain; thus, they now belonged to the State of Alaska.³³

The NPS allowed the ADF&G to regulate the small-scale commercial fishery in Glacier Bay. It also assumed that the Native seal hunters would respect the ADF&G's closed season on seal hunting while operating under NPS permits in the Monument. For its part, the ADF&G informed Huna Natives that they did not need permits to hunt seals in Glacier Bay below the tideline, because the State controlled the waters.

This legal muddle posed a problem for enforcement of seal hunting restrictions. NPS officials were unsure of their authority to board vessels or to make arrests on the open water. The jurisdictional dispute may have been an important factor in muffling the issue of Native seal hunting after 1966, although evidence of this is only circumstantial. Shortly thereafter, NPS officials in Washington instructed the Superintendent that the seal hunting agreement would be continued, with the thought that it would die a natural death when "the few old timers still participating could no longer hunt."³⁴

With these developments in the background, the NPS could no longer afford to address Huna Tlingit privileges within these strict local context. In effect, the problem of Native seal hunting was swept out of Glacier Bay on the tide of legal and political maneuvering that turned not on seals, but on State land selections, Native land claims and nearly a billion dollars' worth of North Slope oil leases. In January of 1968, the U.S. Court of Claims ruled in favor of the Indians in the case of Tlingit and Haida Indians of Alaska, v. Unites States finding that their aboriginal title was valid, and they were entitled to recover for uncompensated taking of their land and property. That case was a forerunner to the Alaska Native Claims Settlement Act (ANCSA) which was enacted in December of 1971.

At the same time, ANCSA laid the foundation for modern legal protections of Native subsistence use in Alaska. At an early stage in the development of this legislation, it became apparent that Alaska Natives were dependent on far more land for their subsistence needs than Congress would be willing to allow them to retain.

The Federal Field Committee estimated that Alaska Natives required a minimum of 60 million acres to support their subsistence take. Not only was

this acreage unacceptably high as a share of the total land area of the state, but the regional corporations that ANCSA established were expected to select Native lands on the basis of development potential, rather than subsistence resources, and often the two did not coincide. Therefore, lawmakers recognized that the extinguishment of aboriginal title would have to be accompanied by legal protections of the Native's continued subsistence use of the public lands.³⁵

The Senate version of the Alaska Native land claims bill provided for this protection, but the House version did not. The final version of ANCSA left out the subsistence provision, which was to be decided in later legislation. However, the Conference Report on the bill stated that the committee "expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Natives."³⁶

It would have been reasonable to assume that Congress's deliberations over Native subsistence protections pertained to the Huna Tlingit's position in Glacier Bay, but the NPS did not see it this way.

In 1972, the Superintendent again pushed to end Native seal hunting privileges, maintaining that the U.S. Court of Claims judgment in 1968 had now compensated the Tlingits for any aboriginal rights they once enjoyed in Glacier Bay. The NPS informed the people of Hoonah that it had in its possession a department Solicitor's Opinion stating that the court's decision in 1959 had terminated any such rights. The NPS did not disclose that this Solicitor's Opinion was now nine-years-old, dated December 15, 1965. It had been written prior to the Court's second decision and ANCSA, and was of doubtful value.

At least two significant problems were unaddressed by this nine-year-old opinion. First, did the Court's subsequent restriction of its judgment to land areas still affect the Huna Tlingit's privileges in Glacier Bay? Second, did the Court's ruling affect hunting rights, and if so, was it superseded by ANCSA and the intent of Congress to protect Native subsistence?³⁷

Less than six months after passing ANCSA, Congress considered subsistence protection for Alaska Natives in terms of another bill which would become the Marine Mammal Protection Act of 1972.

The enactment of the Marine Mammal Protection Act (MMPA) made four significant refinements to the vague subsistence protections that Congress had mandated in the course of settling the Alaska Native land claim. First, there was a notable shift in emphasis from the economic to the cultural significance of subsistence. Second, Congress decided to broaden the Native's subsistence protections to include limited commercial use of harvested marine mammals. Third, Congress decided to overlook the protests of some non-Native Alaskans that these subsistence protections were racially discriminatory. Fourth, Congress insisted that marine mammal harvest must not be "accomplished in a wasteful manner".³⁸

To NPS officials who wanted to end Native hunting in Glacier Bay National Monument, the MMPA suggested a need to make haste in declaring that seal hunting was no longer legal. Five days after Congress enacted the MMPA, the Glacier Bay Superintendent pushed for an end to seal hunting in Glacier Bay. On November 14, 1974, he was told by telephone by the director of the Alaska field office to arrange a meeting with the people of Hoonah and inform them that their privileges in the monument were terminated.³⁹

If a meeting to explain this to the people of Hoonah ever occurred, it is not a part of the official record.⁴⁰

Subsistence Fishing

It was only a matter of time until people pointed out the strange state of affairs that existed when the NPS tolerated the extraction of millions of dollars of fish for commercial use, yet prohibited subsistence harvests from those same resources by the Natives of Hoonah.

Beginning in the winter of 1988 - 89 when the State of Alaska Board of Fisheries issued Subsistence and Personal Use Permits to Native residents of Hoonah for marine areas within the Park, the debate over the Glacier Bay fishery became more tangled, divisive, and emotionally charged than before. NPS officials were hesitant to enforce the Park's ban on subsistence use, or to allow the possibility that such use could be compatible with the Park's purposes. Yet they

remained adamant that the law, as it stood, did not allow subsistence. The subsistence issue threw a monkey wrench in the Park Service's drive to eliminate commercial fishing in the park.⁴¹

Subsistence and ANILCA in Glacier Bay

National Park Service officials maintain that ANILCA does not allow subsistence use in Glacier Bay National Park (3,224,794 acres). It is allowed in all preserves established under the Act, including Glacier Bay National Preserve (58,406 acres). Federal protection of Native subsistence began or originated from the Alaska Native Claims Settlement Act of 1971. The Joint Federal-State Land Use Planning Commission, created by ANCSA to make preliminary recommendations on the enormous land withdrawals made under section 17(d)(2) of the Act, examined the subsistence issue starting in 1972. The Commission learned firsthand that subsistence ranged across a broad spectrum of activities from direct use of the resource by the family of the provider to some commercial activities and the taking of resources as part of the individual's cultural heritage. The Commission reported to Congress in 1974 that subsistence was "deeper than physical need and Natives particularly feel these activities are intricate to his culture."⁴²

In 1972, the NPS began to identify study areas for withdrawal under 17(d)(2). This led to proposed additions to the National Park System which varied as the proposals moved through the process for final selection. The NPS conducted studies on subsistence activities on all the proposed parklands except the Glacier Bay extension as the NPS determined there was no subsistence use of Glacier Bay (Appendix 4). The lack of a subsistence study is particularly glaring in light of the NPS conducting a Glacier Bay National Monument Mining Impact Study in 1978 which assessed the cultural resources of the area and found Huna Tlingits subsistence uses (Appendix 17).

The early withdrawal proposals did not include Glacier Bay National Monument but it was added to the list by the Federal-State Land Use Planning Commission for Alaska, Tentative Recommendations for National Interest Lands (D-

2) in Alaska on April 21, 1976. This initial recommendation was for 30,000 acres which was later enlarged to 590,000 acres in H.R. 39.

A 1975 NPS study on subsistence further supported protection by noting the cultural-psychological dependence of the Native lifestyle on subsistence resources (Appendix 18).

According to the report, the mistake of past federal policy was to equate subsistence with welfare and poverty concepts that were alien to the indigenous people. Alaska Natives were faced with three alternatives. They could attempt to return to their old ways (not really possible or desirable), they could move steadily away from their culture until they completely adopted western culture (possible, perhaps, but no more desirable). Or they could find a balance between the two worlds. The report blistered the federal government for consistently formulating policies based solely on the second alternative — on the assumption that the Natives were on the path to complete assimilation. “Does it have to be one or the other; does one way of life have to die, so the other can live?”⁴³

An important influence on the development of a subsistence policy during the '70s was the writings of Raymond Dasmann, a senior ecologist on the faculty of the International Union for Sea Conservation of Nature and Natural Resources in Switzerland. Dasmann strongly favored the view that global environmental problems demanded local problem solving. He postulated that human societies can be divided into two categories, with some societies in transition from one category to the other. These two categories he called “ecosystem people” and “biosphere people”. The former embraces all the members of indigenous traditional cultures, while the latter includes everyone who is tied in with the global technology civilizations.

Ecosystem people live within one or perhaps two or three closely related ecosystems. They have to live simply within the carrying capacity of their own ecosystems, or face the consequences of drawing down their own limited resources. Biosphere people have access to the resources of the entire biosphere. Biosphere people can exploit the resources of one ecosystem to the point of causing great devastation — something that would be impossible or unthinkable to those who were dependent upon that particular ecosystem. Conversely,

biosphere people can afford to create National Parks in which according to the traditional model, nature is set apart from human consumptive uses. In most of the world today, Dasmann observed, areas that biosphere people see as potential National Park lands are the very lands still inhabited by ecosystem people.

Dasmann's view was that "National Parks must not serve as a means for displacing the members of traditional societies who have always cared for the land and its biota. Nor can National Parks survive as islands surrounded by hostile people who have lost their land that was once their home." Dasmann suggested that the proper direction for a new National Park was toward what he called a "future primitive" — toward creation of a natural landscape that included human societies that are permanent, sustainable and embody natural conservation as a matter of course.⁴⁴

NPS personnel took the lead in developing legislation and policy between 1975 and 1978, produced a series of position papers covering subsistence issues (Appendix 19). Research on subsistence was conducted by the State of Alaska and other interested groups as well such as the Subsistence Resource Council (Appendix 20). While the Department of Interior and Congress focused on National legislation, the State of Alaska enacted its own subsistence law in 1978.⁴⁵

During this time, the increase in timber cutting in the Tongass National Forest gave rise to a conflict between timber harvesting and conservation of fish and wildlife habitat which prompted the ADF&G to undertake community subsistence use studies in the mid-eighties including a study of Hoonah.

Based up on this study, the local subsistence board in Hoonah proposed that the State of Alaska Board of Fisheries issue Subsistence Use Permits for Glacier Bay. The Board of Fisheries did not approve the local subsistence board's proposal when it came up for review in January of 1987, however the NPS was prepared to oppose Native subsistence uses of Glacier Bay. NPS's opposition to the proposal centered on two legal problems: ANILCA (Sections 203 and 816(a)) did not authorize subsistence harvest of fish, wildlife and plant resources in Glacier Bay National Park, and the proposal's reference to "State waters" in Glacier Bay contradicted the Federal Government's claim of ownership.⁴⁶

Members of the Hoonah Indian Association and the Huna Totem Corporation raised the issue again with the reference to the Park Service's Environmental Impact Statement (EIS) on its wilderness recommendations in September of 1988. The EIS made no mention of impacts of wilderness on subsistence use, even though the ban on motorized vessels in wilderness parks would inhibit subsistence use of those waters as well as the lands around them. Tlingits wanted the NPS to include maps and harvest data in the EIS to reflect existing subsistence use — information that was readily available from the ADF&G's study.

Further, they wanted the NPS to consult with clan members in Hoonah about the cultural significance of Glacier Bay to their people, as was required under the American Indian Religious Freedom Act and the Indian Self-Determination and Education Assistance Act. They argued that ANILCA's commitment to Native "cultural existence" (section 801) reinforced this imperative.⁴⁷ Shortly thereafter, the Natives of Hoonah met with NPS officials who explained that the EIS was narrowly focused on the subsistence wilderness recommendation.

However, they recognized the Huna Tlingit's historical ties to Glacier Bay and exempted them from vessel permit system under the whale regulations — since they were insulted by the requirement of asking permission to enter Glacier Bay — and allowing them to gillnet sockeye, but they would not make any concession on egg collecting or hunting in the Park.⁴⁸

In March 1989, the State of Alaska Board of Fisheries determined that the people of Hoonah were entitled to catch salmon in Glacier Bay National Park according to their "customary and traditional use." It also authorized "personal use" fishing in all of Southeast Alaska, including Glacier Bay. ADF&G then began issuing subsistence permits to Hoonah residents for Glacier Bay and Excursion Inlet.⁴⁹

In May, the NPS requested ADF&G cease issuing permits and reiterated the Park Service position that subsistence use of the Park was not authorized under ANILCA. ADF&G took the position that they did not have "the discretion" to countermand a decision by the Board of Fisheries and instead would include a statement with each permit that the NPS "has stated they will issue

citations to persons found fishing with subsistence permits within this area.” The ADF&G issued subsistence fishing permits to about 80 families in Hoonah in June and NPS personnel responded by posting boating regulations at various points in the village. Hoonah Tlingit’s called the notices an intimidation tactic.⁵⁰

The Southeast Alaska Conservation Council (SEACC) protested that the State and the Federal Governments were dragging “innocent bystanders” into a “turf war”, and wrote:

We think it is terrible to force anyone to sail for Glacier Bay without knowing whether exercise of a traditional right will cost them their fishing gear, their boats, or even their freedom. The situation may disturb officials in their comfortable Anchorage offices, but consider for a moment the impact on men and women of Hoonah who must risk so much to practice the traditions of their culture.⁵¹

In July, NPS staff held meetings with the Huna Tlingits in an effort to restore goodwill and acknowledge the Tlingit’s close historical ties to Glacier Bay, encouraging them to visit the Park and participate in activities allowed under existing law. In November, Sealaska Corporation (created as the Southeast Regional corporation under the terms of ANCSA) sponsored a conference on subsistence with representatives from State, Federal and Native organizations participating.

In December 1989, the State Supreme Court decided that the rural residence preference in the State’s subsistence law was unconstitutional, but stayed its ruling to allow the legislature time to enact a new law. The following year, ADF&G again refused NPS’s request to refrain from issuing Subsistence Permits in Glacier Bay. Although the NPS could not convince ADF&G to deny issuing subsistence permits, the NPS maintained that they would be “lenient in its enforcement” of the June regulation prohibiting subsistence.⁵²

The Huna Tlingit continued to use Glacier Bay for customary and traditional subsistence fishing and gathering. Then in 1991, the National Park Service and the Federal Subsistence Board (FSB), took steps through regulations to close Glacier Bay National Park to subsistence fishing and gathering.

In taking that action, the NPS claimed that they were doing so because ANILCA required it, thereby contending that, in essence, Congress in ANILCA broke the promise made to the Huna Tlingit by the federal government nearly seventy (70) years ago to protect their subsistence rights. This was never the intent of the House of Representatives in developing ANILCA, nor do they believe it was the intent of Congress.

In May 1991, Sealaska Corporation, speaking for its shareholders in Hoonah, and for the Native community of Southeast Alaska generally, submitted comments strongly protesting this policy to the FSB and the National Park Service, and urging the FSB and the NPS not to adopt the regulations as proposed. Despite Sealaska comments and protests, the Department of the Interior retained that policy in temporary regulations governing the federal takeover of subsistence management issued July 1, 1991.

On August 5, 1991, the Park Service published a proposed rule prohibiting subsistence fishing in the Park and holding that subsistence fishing is “not currently existing or continuing” and is “precluded” in Glacier Bay National Park by Section 203 of ANILCA.

In response to the NPS August 5, 1991 Notice of Proposed Rulemaking, Sealaska submitted comments to the NPS strongly and unequivocally protesting the proposed rules. The State of Alaska, the Southeast Alaska Conservation Council, and others, also submitted strong opposition to the Park Service’s interpretation of ANILCA. Hoonah residents testified at the Park Service rulemaking hearings that subsistence fishing and gathering has been customary, traditional, ongoing and continuous up to the present.

On December 9, 1991, the Federal Subsistence Board articulated its no subsistence fishing in Glacier Bay National Park position in its proposed rule on 1992-93 subsistence taking of fish and wildlife on federal lands in Alaska.

On January 17, 1992, Sealaska Corporation filed with the Secretary of the Interior a Petition for Rulemaking, asking the Secretary to overrule the interpretation of the Federal Subsistence Board and the National Park Service, which purported to close Glacier Bay National Park to customary and traditional subsistence fishing and gathering.

In the legal argument that accompanied the petition submitted to the Department of the Interior, Sealaska contended that notwithstanding the NPS interpretation of Section 203, the effect of Sections 816 (a) and 1314 (c)(1) and (2) of ANILCA is to authorize customary and traditional subsistence fishing and gathering in Glacier Bay National Park.

Section 816(a) of ANILCA closed all Alaska national parks to the taking of wildlife, except for “subsistence uses to the extent specifically permitted by this Act.” Section 816(a) further provides that: “Subsistence uses (which under most any definition of the term would include fishing and gathering) and sport fishing shall be authorized in such areas (all national parks and park monuments in Alaska) by the Secretary and carried out in accordance with this title and other applicable laws of the United States and the State of Alaska.

The only limit placed on subsistence uses in Parks is found in Section 816(b), where the Secretary is authorized to “temporarily close” an area to subsistence uses of a particular fish or wildlife population only if necessary, for reasons of public safety administration or to assure the continued viability of such population.

Section 1314 (c) (1) provides that the areas designated as national parks (which includes Glacier Bay National Park) will be closed to the taking of fish and wildlife except that:

notwithstanding any other provision of this, the Secretary shall administer those units of the National Park System and those additions to existing units, established by this Act and which permit subsistence uses, ...to provide an opportunity for the continuance of such (subsistence) uses by local rural residents...

In addition, 1314 (c) (2) provides that:

Fishing shall be permitted in national parks or national park system monuments by the Secretary.

Section 801 (4) of ANILCA has been construed to be read as Indian legislation as it applies to Alaska Natives. In light of that, it is illogical that the Congress intended for sport fishing to be permitted in national parks in Alaska but

not subsistence fishing. Sealaska's Petition for Rulemaking set forth the legal argument in detail, and that argument is augmented by the comments of the Southeast Alaska Conservation Council and the State of Alaska.

The Secretary declined to initiate a separate rulemaking proceeding on Sealaska's Petition, in light of the fact that their Petition could be addressed in the FSB or NPS rulemaking proceedings. Immediately thereafter, the Department issued FSB rules asserting that ANILCA closed Glacier Bay National Park to subsistence fishing and gathering. 57 Fed. Reg. 22940 (May 29, 1992).

PART IV THE LEGISLATIVE HISTORY OF THE
ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT
(ANILCA),
REGARDING SUBSISTENCE HUNTING, FISHING AND
GATHERING IN
GLACIER BAY NATIONAL PARK

Donald Mitchell, attorney for the Alaska Federation of Natives during the ANILCA legislation, provides an analysis and history of the National Park Service's position on subsistence hunting, fishing and gathering in Glacier Bay National Park in a memo (accompanied with supporting documents) of July 12, 1999 and provides in pertinent part (Appendix 21):

95th Congress-U.S. House of Representatives

In January 1977, H.R. 39 was introduced by Representative Morris Udall with section 102(a)(3) adding 800,000 acres to the Glacier Bay National Monument and renamed the Monument as Glacier Bay National Park.

As a matter of agency tradition, by 1977 NPS long had opposed allowing wildlife to be hunted in parks. The environmental organizations whose representatives had written H.R. 39 generally shared that view. However, both NPS and the environmental organizations, early on in their campaign to persuade the 95th Congress to enact H.R. 39, recognized that it was politically important to be able to represent to Congress that the Alaska Native community supported the large parks that the enactment of H.R. 39 would designate. As a consequence, section 103 of H.R. 39 included a provision that authorized (although it did not require) NPS to allow subsistence hunting to occur in new parks and in additions to existing parks (including the addition to Glacier Bay National Monument).

On September 15th, 1977, the Secretary of the Interior presented the official administration's position on H.R. 39 at a hearing of the Subcommittee on

General Oversight on Alaska Lands of the House Committee on Interior and Insular Affairs (herein after “GOAL Subcommittee”). With respect to the question of whether Congress should allow subsistence hunting (and by inference, subsistence fishing) to occur in new parks and in addition to existing parks, the Secretary informed the subcommittee that “although hunting activities have traditionally been allowed on certain federal lands, they have generally been prohibited in areas of the National Park system. However, there is a need to recognize legitimate subsistence uses in Alaska which occur in some of the proposed park system area.” Six days later the Assistant Secretary of the Interior testified before the GOAL Subcommittee explaining the package of amendments to H.R. 39 that the Secretary had submitted when he testified, explaining that the Department of Interior recommended H.R. 39 be written to direct the Department of Interior to establish subsistence management zones in which “subsistence uses were customarily occurring on December 18, 1971, and where continued subsistence uses would be consistent with the purposes for which the area was established and is being managed.”

Significantly, at that time the Secretary testified, NPS informed the GOAL Subcommittee that the addition to Glacier Bay National Monument was in an area in which Congress should allow subsistence hunting and fishing to continue. Although the GOAL Subcommittee did not print the document as part of its hearing record on H.R. 39, on September 15, 1977, when the Secretary testified before the Subcommittee, NPS distributed a summary sheet that described the “National Park System Proposal for Alaska.” This summary sheet identifies the addition to Glacier Bay National Monument as an area in which subsistence hunting, fishing and gathering should continue.

NPS’s recognition that subsistence hunting, fishing and gathering should continue in new parks and in addition to existing parks eventually resulted in an express (although unwritten) agreement between NPS and the Alaska Federation of Natives. Pursuant to the agreement, AFN agreed to support the 95th Congress’ establishment of the NPS units listed in H.R. 39. In return, NPS agreed to recommend to the 95th Congress that it include language in the sections of the park title of H.R. 39 that explicitly guarantee that subsistence hunt-

ing, fishing and gathering would continue in each park (other than the Katmai National Park), as well as in additions to existing parks, including the addition to Glacier Bay National Monument.

Consistent with that agreement, section 202(2) of the amendment in the nature of a substitute for the original text of H.R. 39 that the Committee on Interior and Insular Affairs on April 7, 1978 reported to the U.S. House of Representatives included language that mandated NPS to manage Glacier Bay National Park “to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the addition for continuation of previously established subsistence uses.” Similar language was included in the other sections that established new or enlarged existing parks.

In the report the Committee on Interior and Insular Affairs filed when it reported its amendment in the nature of a substitute for H.R. 39, the Committee explained its policy regarding subsistence hunting, fishing and gathering in parks as follows:

The purposes (for each park unit that were stated in the section of the amendment that established or enlarged the unit) also include “to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents,” which states the intent of the Committee that existing subsistence uses shall be permitted to continue, consistent with the provisions of title V1 (sic), to the extent that this can be done without overtaxing the continued viability of subsistence [re]sources (which viability, i. e., the ability of a resource to perpetuate itself, is to be protected).

The version of H.R. 39 that the U. S. House of Representatives passed in 1978 contained the above-quoted language relating to the continuation of subsistence hunting and fishing in the addition to Glacier Bay National Monument.

95th Congress - U. S. Senate

In the Senate, the version of H.R. 39 that had passed the House was referred to the Committee on Energy and Natural Resources, which was chaired by Senator Henry “Scoop” Jackson of Washington. When the members of the Committee began meeting to “mark-up”, i. e., amend, H.R. 39, rather than offering amendments to the House passed bill, Jackson had the members of the Committee debate, and then make decisions regarding “concepts” that the Committee staff then was instructed to write into a new version of the bill. Prior to each mark-up session, Jackson distributed a memorandum to each member of the Committee in which he recommended his preferred course of action.

On July 20, 1978 Jackson distributed a memorandum entitled “Mark-up of Alaska National Interest Lands Legislation; Possible Resolution of Issue 5 - Subsistence Hunting-” (See Attachment) No. 2. In pertinent part, the memorandum “suggested that the Committee adopt the H.R. 39 approach to subsistence (Title VII) including the provisions permitting subsistence hunting on all public lands *including units of the National Park System.*” (emphasis added)

A day or two after Jackson distributed the aforementioned memorandum the Committee on Energy and Natural Resources held an evening mark-up session in a room on the ground floor of the Capitol a short distance from the Senate chamber. To the best of my recollection, when the issue of subsistence in the parks was discussed, rather than accepting the recommendation in the Jackson memorandum, Senator John Melcher of Montana (who throughout the Committee’s consideration of H.R. 39 was openly hostile to the Native position on most issues) urged that subsistence hunting not be permitted within parks. Senator Clifford Hansen of Wyoming, the ranking Republican member of the Committee, also advocated that view.

When Senators Melcher and Hansen began making their argument, I was sitting behind Senator John Durkin of New Hampshire. I told Senator Durkin that there was an agreement between NPS and AFN regarding subsistence hunting and fishing in parks, and that the provisions of the House passed version of H.R. 39 accurately reflected that agreement.

When it was his turn to speak Senator Durkin informed the Committee that there was an agreement. Scoop Jackson then asked Roger Contor (the coordinator of NPS's participation in the H.R. 39 process and who, like me, was sitting in the audience) whether Senator Durkin's assertion was true. Contor then stood up and denied that there had been any agreement. As a consequence, a majority of the members of the Committee decided that subsistence hunting would not be allowed in new parks or in additions to existing parks, except to the extent that the Committee subsequently decided, case-by-case, that subsistence hunting should be allowed in a particular park or addition. That decision meant that, unlike the House-passed version of H.R. 39, the version of the bill that the Committee reported to the Senate would not automatically include language in each section that established or enlarged a park that directed NPS to allow subsistence uses (a term that included subsistence fishing as well as subsistence hunting).

When the mark-up session adjourned, I angrily told Cynthia Wilson the member of the Department of the Interior staff who had overall responsibility for the Department's involvement with H.R. 39 and who was sitting in the audience, that I wanted to meet with her and Roger Contor the next morning in her office. The next morning when I arrived in Wilson's office Contor profusely (if cynically) apologized for "mis-speaking" the previous evening because, of course, there was an agreement between NPS and AFN regarding subsistence hunting and fishing in parks. I told Wilson and Contor that I wanted Contor to straighten out his "mistake" by informing the Committee of his error. My recollection is that Contor did so, but I do not remember whether he did so orally or in writing (if he wrote a letter it no longer is in my files).

In any case, the Committee decision that Roger Contor's misrepresentation helped to bring about turned the "subsistence in parks" issue into a guerrilla war in which AFN battled NPS park-by-park, addition-by-addition, to persuade the Committee on Energy and Natural Resources to require NPS to authorize subsistence uses in parks and park additions. In the end, the version of H.R. 39 that the Committee reported to the Senate included language in the sections that established Gates of the Arctic National Park and Kobuk Valley National

Monument that required NPS to allow subsistence uses. But similar language was not included in the sections that established other units, including the section that renamed and enlarged Glacier Bay National Monument.

Mr. Mitchell's allegation of Mr. Contor's (coordinator of NPS participation in H.R. 39 process), misleading the Senate Committee regarding an agreement between the NPS and AFN to protect subsistence uses in the proposed parks, is confirmed by the transcripts. When Senator Stevens asked, "Is there anyone here from the Park Service? Have they been assured they can hunt in the Park?" Mr. Contor responded, "There is no commitment.." (Appendix 22)

PART V ATTEMPTS TO ENACT LEGISLATION IN CONGRESS TO ALLOW FOR SUBSISTENCE IN GLACIER BAY NATIONAL PARK

After the FSB rules closed Glacier Bay National Park to Subsistence fishing and gathering in May of 1992, a number of organizations involved in this issue have tried to build a consensus among commercial fishermen, Native subsistence users, the State of Alaska, environmentalists and conservationists which would then put pressure on the Alaska Delegation to seek a legislative solution in Congress. But to date, they have not been successful. There have been a number of attempts to enact legislation in Congress to allow for subsistence in Glacier Bay National Park, however none of them have been successful.⁵³

In 1992, Congress addressed legislation to allow subsistence in Glacier Bay National Park. In May, the Senate held hearings on S. 1624 and in September the House held hearings on H.R. 3418. Robert W. Loescher, Executive Vice President for Natural Resources, Sealaska Corporation gave testimony in support of the legislation (Appendix 23 and 24).

In April of 1993, the House held hearings on H.R. 704, authorizing subsistence and commercial fishing in Glacier Bay National Park. Again, Mr. Loescher of Sealaska Corporation gave testimony in support of the legislation (Appendix 25).

In opposing H.R. 704, John Morehead, Regional Director, NPS, testified in part:

We recognize that Native Tlingit from the village or Hoonah near Glacier Bay have historically engaged in fishing and gathering of plants, berries, and shellfish in the park. We believe that this level of use by the Native people of Hoonah would have no adverse impact on park resources. No evidence of non-Native subsistence use of this area is found in the legislative history, and none was presented in public meetings and comments received on proposed regulations in September and October 1991. Accordingly, we view H.R. 704, which would open the park to subsistence fishing and gathering under the authority of Title VIII of ANILCA, which would include new residents and those non-Natives with no record of traditional use, as far too broad.

It would lead to increased taking of fish and over harvesting of wild foods, and result in increased competition with the traditional village users. One of the options we are considering is to seek authorization for issuing permits to Natives from the village of Hoonah for customary and traditional fishing and plant gathering for direct personal and family consumption. We intend to develop further options that would provide legal recognition of the traditional uses of Hoonah Natives, and we welcome the Subcommittee's suggestions in this regard. (Appendix 26)

It is significant to note Mr. Morehead's commitment to "develop further options that would provide legal recognition of the traditional uses of Hoonah Natives...", is a classic example of how the NPS pledges to recognize subsistence use, but in reality NPS has been and is "stonewalling" any meaningful recognition to this day.

In April of 1997, the NPS in a proposed rule (Appendix 27) concerning commercial fishing in Glacier Bay National Park and Preserve addressed the Hoonah Tlingit subsistence use fishery as follows:

Hoonah Tlingit Cultural Fishery

NPS and the Hoonah Indian Association (Hoonah Indian Association), a federally recognized tribal entity, signed a Memorandum of Understanding in 1996, committing to work cooperatively to protect the cultural heritage of the Hoonah Tlingit, explore ways to recognize and honor the Tlingit's cultural connection to Glacier Bay, and allow for—and preserve—cultural activities compatible with park objectives. Toward that end, NPS will work with Hoonah Indian Association to develop a cultural fishery program designed to preserve and pass on traditional native fishing methods. The State of Alaska's educational fishery program may serve as a vehicle for developing such a program.

The above language clearly is not anywhere near the protection for subsistence afforded under ANILCA to the Alaska Native in the other National Parks in Alaska.

The above recognition is part of the management plan governed by the NPS Organic Act (16 U.S.C. Section 1, et seq.), and not in recognition of subsistence use provisions of ANCSA or ANILCA.

The most recent legislation addressing subsistence uses in Glacier Bay National Park is S. 501 which had hearings in April 1999. Mr. Loescher of Sealaska Corporation gave extensive testimony in support of the legislation, as did the Alaska Legislature and the Alaska Department of Fish and Game. The US Department of the Interior, SEACC, and the Sierra Club opposed the legislation. (Appendix 28 and 29) This legislation is pending.

The April 1999 testimony of Don Barry, Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior, again portrays the agency predilection to slant the record when testifying:

...we do not believe the time is appropriate to expand ANILCA's provisions for subsistence to Glacier Bay. Glacier Bay National Park **has been closed to most subsistence activities since 1925...** (emphasis added) (Appendix 29)

The Proclamations creating Glacier Bay National Monument in 1925 and its extension in 1939 were "subject to all prior valid claim" which would be the Huna Tlingits' subsistence rights. However, due to the NPS not recognizing these rights, a questionable paper prohibition caused complete confusion, allowing subsistence uses to continue through a policy of non-enforcement by Park management or agreements were made to allow for subsistence uses. The 1978 Proclamation, further enlarging the monument, specifically protected subsistence:

The land withdrawn and reserved by this Proclamation for the protection of the geological, biological, and other phenomena enumerated above supports now, as it has in the past, a unique subsistence culture of the local residents. The continued existence of this culture, which depends on subsistence hunting, and its availability for study, enhances the historic and scientific values of the natural objects protected herein because of the ongoing interaction of the subsistence culture with those objects. *Accordingly, the opportunity for*

local residents to engage in subsistence hunting is a value to be protected and will continue under the administration of the area added to the Glacier Bay National Monument by this Proclamation. (emphasis added) (Appendix 30)

The State of Alaska issued subsistence permits for Glacier Bay and the **Huna Tlingit people continued to use Glacier Bay for customary and traditional subsistence fishing and gathering even though in 1992**, when the NPS and the Federal Subsistence Board closed Glacier Bay National Park to subsistence uses through regulations.

Furthermore, by stating "...the time is not appropriate to expand ANILCA provisions for subsistence to Glacier Bay...", could very well be understood to imply that it may be proper in the future. However, this is a clear example of NPS "stonewalling." Their statement implies support, while the issue is drawn out further and further, whittled down to only three subsistence use issues, and limited to fewer participants -- only those members of the Hoonah Indian Association.

One could conclude the steps taken by NPS to date would have to be viewed as inadequate, if the goal sought to be reached by the Huna Tlingits is a level of protection for their subsistence uses that is equal to that afforded other Alaska Natives in eight of the nine other National Parks created by ANILCA.

PART VI PRESENT STATUS

In recognizing the Huna Tlingit's special relationship with Glacier Bay, the National Park Service has attempted to address their concerns for subsistence uses through ongoing discussions which are based upon a Memorandum of Understanding (MOU) (1995) with the Hoonah Indian Association (HIA) (Appendix 31).

However, the MOU does not make reference to subsistence and thereby only is recognized in the management plan under authority of its Organic Act and not under ANCSA, ANILCA or the MMPA, which would afford a much higher level of protection.

The present status of the issues covered by the MOU is explained by the NPS in the following letter of July 15, 1999.



United States Department of the Interior

NATIONAL PARK SERVICE

Glacier Bay National Park and Preserve
P.O. BOX 140
Gustavus, Alaska 99826-0140

IN REPLY REFER TO:

N18

Mr. Norman Staton
3445 Meander Way
Juneau, Alaska 99801

Dear Mr. Staton:

Thank you for your letter expressing interest in the workings of the MOU between the National Park Service (NPS) and the Hoonah Indian Association (MA). Wayne Howell informs me that you have a copy of the MOU, so I will not enclose a copy with this letter. However, I will point out that the MOU is a document that primarily accomplishes two things - it recognizes a government-to-government relationship between NPS and IRA, and it establishes a communication mechanism whereby NPS and BELA can more effectively interact. At no point does it make reference to subsistence.

Regarding subsistence in Glacier Bay-, subsistence was not authorized under ANILCA for Glacier Bay National Park, but was authorized for Glacier Bay National Preserve at Dry Bay. However, discussions between NPS and the people of Hoonah regarding fishing, hunting and gathering opportunities within Glacier Bay National Park have been ongoing for years, and have developed more fully as a result of the MOU. The seminal event in these discussions occurred in September of 1997 when NPS sponsored a two day workshop at Bartlett Cove designed to explore how Hoonah people's 'traditional ecological knowledge' (TEK) might be shared with Park managers and visitors. Those in attendance included representatives from the Hoonah Indian Association, elders from all of the Hoonah Clans, NPS the State of Alaska, and professional anthropologists who have done research in the region. The workshop in fact became a much needed forum for discussions about subsistence issues in Glacier Bay. Initially we identified subsistence activities that are currently permitted within the Park - these include such activities as berry picking, fishing (both sport and 'personal use' as defined under State of Alaska regulations), gathering of seaweed, and clam digging. We also discussed other nonsubsistence activities, such as gathering of mountain goat hair from the bushes. However, the crux of discussions centered on three subsistence activities which are currently not legal within Glacier Bay -gathering of sea gull eggs, seal hunting, and mountain goat hunting- At the end of the two day meeting, NPS and Hoonah formed a committee to study these three issues in depth, with the understanding that if the studies undertaken demonstrate that these activities might be compatible with other Park values, that NPS would be willing to explore the process whereby they might be permitted. The sea gull egg issue was identified by the Hoonah people as the first priority.

That winter following the meetings NPS initiated a two part study to gather critical data. We first commissioned a team of anthropologists from the University of Washington to conduct an ethnographic study of the Hoonah tradition of egg collecting in Glacier Bay. That work was done in 1998, and the final report is currently under review. This year we initiated a two year biological study, with a team of biologists working with the USGS Biological Resources Division looking at the population and productivity of the glaucous-winged gulls on South Marble Island. When these critical studies are completed, NPS will use the

information to guide us through the decision making process.

Second on the priority list from the TEK Workshop was seal hunting. This is a very complex issue with a long history in Glacier Bay. Funding was recently secured to hire an anthropologist to study the seal hunting issue. Beginning this fall, Ken Austin, himself a Hoonah seal hunter who is currently completing his studies at the University of Alaska Fairbanks, will be employed by Glacier Bay National Park to conduct this study.

Also, as a component of the recent legislation regarding the commercial fishing phase-out in Glacier Bay proper, NPS and MIA are currently beginning work on designing a tribal fishery program. This concept is in its formative stages, but working with Hoonah we hope to design a program that will maintain the important connection of the Hoonah people to the fish resources of Glacier Bay.

Lastly, let me mention the wild berry project which we have had ongoing for the past 4 years. We are currently finalizing an ethnographic report and video which examines the importance of Glacier Bay as a place to gather a variety of wild berries. In recognition of the importance of Glacier Bay for berries, we have sponsored a yearly excursion into Dundas Bay where participants spend a day gathering berries and visiting some of the ancestral sites in the area. This year we are expanding the outing to a two-day event, and have scheduled a second two-day excursion into Glacier Bay proper to gather soap berries.

Thank you for your interest, and if you need further information, please don't hesitate to contact Wayne Howell at (907) 697-2662.

Sincerely,

Tomie Lee
Superintendent

It is significant to note that Hoonah Indian Association's representation, as the sole entity that the NPS is negotiating the subsistence use issue with, raises a pressing question of proper representation of all those affected.

The Hoonah Indian Association is an organization created under the Indian Reorganization Act (IRA) by the Wheeler-Howard Act (1936).

In Alaska and Southeast in particular, the IRA's were created primarily for economic development as the organization could access BIA funds for credit or financing programs. During the time (late 1930s and 1940s) the Hoonah Indian Association was established, and for most of the time after its establishment, the organization considered most influential and the proper representative of Native issues was the Alaska Native Brotherhood. However, the government would only recognize the ANB as a fraternal organization due to its allowing membership to non-Natives.

After the economic development funding programs became limited, the Tlingit and Haida claims and ANCSA took over as the focus of tribal organizations, causing the Hoonah Indian Association to become dormant. HIA only recently came back into prominence due to the government re-creating them and thereby expanding their authority as a matter of convenience, and as the only local organization it will recognize to administer BIA social service programs under contract and perform general government functions.

Most communities that have an IRA also have a number of other organizations exercising quasi-government functions. In the case of Hoonah, other such organizations are the Alaska Native Brotherhood, the Tlingit & Haida Community Council, the State municipal government and most importantly the clans, any of which may be the proper representative depending on the issue involved.

On the issue of subsistence use it would seem that the proper representative, in a traditional and cultural sense, would be the clan who held the possessory property rights for the area.

The failure of the NPS to acknowledge the clan's proper role would appear to display the lack of sensitivity the NPS has shown throughout its relationship with the Huna Tlingits. The authority to administer general government and social service programs must be distinguished from having the authority to represent traditional and cultural possessory property rights to an area.

The NPS appears unwilling to deal with the Tlingit's complex society and instead clings to the IRA organizational structure to address all issues and thereby significantly limits the number of Natives involved. The Hoonah Indian Association has 600 members, while the number of Tlingits from Hoonah affected by the negotiations under the MOU is significantly larger. Huna Totem Corporation has 900 shareholders, and there are additional Huna Tlingits that were born after the corporation rolls closed in 1977. Moreover, the descendants of all the Huna Tlingits not living in Hoonah have an interest that must be afforded protection.

The NPS acknowledged the issue but failed to address it on August 2, 1999 in a re-proposed rule published in the Federal Register (Appendix 32), regarding commercial fishing regulations in Glacier Bay National Park, as follows:

Cultural Issues

...The State expressed concern that Tlingit historical activities are being ignored, and that the residents of other local communities have a cultural and historic dependence upon the Glacier Bay area...

However, they simply evaded the issue by responding:

This issue is generally beyond the scope of rulemaking...

Of significance was the next part of their response:

...That said, we recognize that the Tlingit people have fished the waters of Glacier Bay and Icy Strait for many generations and are intimately connected to both the fish resources and the park itself. Similarly, for over a century **non-Native peoples of Southeast Alaska have come to rely on the waters of the park for sustenance**. We recognize that the park represents more than just an economic resource for these groups it is a place of cultural identity. The Act provisions that authorize lifetime tenancy and continue fishing in outer waters will to some extent preserve both Native and non-Native cultural ties to most of Glacier Bay National Park. Moreover,

nothing in these regulations or the Act preclude fishermen from participating in other authorized activities including sport or personal use fisheries, or visiting and enjoying the park for other reasons.

We cannot legally provide differential commercial fishing opportunities for Natives and/or local peoples and The Alaska National Interest Lands Conservation Act (ANILCA) does not authorize Title VIII subsistence activities in Glacier Bay National Park.

However, we signed a Memorandum of Understanding with the Hoonah Indian Association (HIA) the federally recognized tribal government in 1995 which commits NPS and Hoonah Indian Association to work together on numerous issues of mutual concern regarding Glacier Bay National Park. We have initiated several ongoing projects and programs designed to maintain and strengthen Tlingit cultural ties to Glacier Bay and to perpetuate important cultural traditions. As part of this effort, we intend to pursue the development of a cultural fishery for the local Tlingit community in cooperation with the Hoonah Indian Association and the State. This cultural fishery will allow the Tlingit people to maintain a cultural tradition established by their ancestors that they can pass on to future generations.

The NPS merges Native and non-Native commercial fishing as equal for sustenance, a means of livelihood, and Glacier Bay National Park as a place of cultural identity. The re-proposed rule then lists the eligibility criteria to allow those fishermen with a qualifying history to continue fishing in Glacier Bay proper for their lifetime.

Giving commercial fishing a cultural identity and affording it to be continued while recognizing the Huna Tlingit cultural ties to subsistence uses and only affording it an intention to pursue the development of a cultural fishery is again limiting and stonewalling the subsistence use issue. To allow commercial fishing but not subsistence use fishing is illogical. Moreover, by using the term “sustenance” in describing the dependence on commercial fishing is confusing the issue as most people regard it to mean the same as subsistence.

PART VII OTHER MANAGEMENT ISSUES

There are a number of other current management issues which impact the management of Glacier Bay National Park such as wilderness designation, hump-back whale protection, cruiseship concession management, commercial fishing and the wilderness access for scientific research. Most notably is the issue of commercial fishing. However, this paper does not address these issues. Please review Catton's Land Reborn for extensive discussion covering these issues.

How these issues will be resolved, legislatively, administratively or legally, is an open question. As dissatisfaction with the status quo increases, those who favor greater access to the park are gravitating toward legislative solution, while the more militant conservation groups are looking for a judicial decision. The preferred solution from the National Park Service standpoint is to devise new regulations. It is only through the regulatory process that the Park Service can play the lead role in shaping the Park's future. It is the Park Service's hope to devise regulations that will not only protect the Park's value, but encourage conflicting interest groups to soften their opposition to Park policy.⁵⁴

CONCLUSION

The Huna Tlingit's relationship to subsistence is based upon an intimate dependence on the environment and direct communion with it, and is the well-spring from which their entire culture developed. Tlingit society and culture cannot be separated from the land and the livelihood which evolved from it. It is what they are. For this reason, protection of their subsistence use of Glacier Bay National Park should be equal to that afforded Alaska Natives in the other eight (of nine) National Parks created by ANILCA and also provided for under the Marine Mammal Protection Act (MMPA).

Glacier Bay is an intricate part of the Hoonah territory. Place names for Glacier Bay reflecting the significance of this area, have been translated as "the main place for the Hoonah people", and the "Hoonah breadbasket." Nearly every item in the domestic economy of these residents can be found in Glacier Bay. At the time of contact, concepts of property and ownership, including ownership of land and hunting, fishing and gathering areas, were well established among the Tlingit. Glacier Bay was occupied by the T'akdeintaan and Wooshkeetaan clans, people who now reside primarily in the village of Hoonah.

Commercial exploitation of the natural resources either ignored or disputed the established Tlingit system of land and ownership and brought an end to the Tlingit's possessory property rights. Beginning in 1867 with the canneries, who had first paid for the use of the Native-owned streams, and government policies favorable to their development, such as establishing open water fishing only ignored Tlingit claims to the various streams and thereby ended the Native's use of weirs or fences for catching salmon.

Along with the canneries came fox farmers, prospectors and the mining industry who quickly established sites without regard to Native claim to lands and was considered the only problem that had to be dealt with when creating the Monument and as a result legislation specifically provided for its protection.

The homesteaders of Gustavus quickly and loudly complained of the inclusion of their area within the Monument extensions so the boundaries were adjusted to place Gustavus outside the Monument.

How or what could have the Huna Tlingits done to keep their possessory property rights? The Tlingits had strongly objected to the sale of Alaska by Russia and made it clear that the sale was impossible, since the Russians did not own the land in the first place. The United States answered with “gunship policies” by bombarding both Kake (1869) and Angoon (1882) which effectively inhibited Tlingit efforts to protect their resource property rights. However, records reflect numerous and continual concern expressed by the Huna Tlingits for their subsistence use rights in Glacier Bay. These concerns were reported by government officials to their superiors at the Department of Interior who refused to see the obvious, that the Huna Tlingit tribal claim rights existed with ecological consequences of prohibiting or approving, creating a conflict with management of the area.

The Proclamations creating Glacier Bay National Monument in 1925 and its extension in 1939 were “subject to all prior valid claim.” It was further enlarged in 1978 by Proclamation which specifically protects subsistence. Under ANILCA in 1980, a large part of the Monument was made into a National Park with areas designated as Glacier Bay Wilderness Area, as additions to the National Wilderness Preservation System, 16 U.S.C. 1132.

Since the creation of the Monument in 1925, the NPS has tried to find any reason to limit the various subsistence uses in Glacier Bay until ultimately completely precluding them all. The NPS constantly challenged subsistence uses as “lost or given up”, “not needed”, “too modern of methods used”, or as “unwarranted privilege which was discriminatory against whites”. These and similar claims were later considered by Congress in subsistence legislation which completely disregarded them in recognizing the validity of subsistence uses, if previously exercised, and ANILCA specifically provided for their protection.

ANCSA’s acknowledgment that Native cultural existence depended upon subsistence was an important concession to the Native point of view. Moreover, the law stated that to protect Native subsistence use it was “necessary for the Congress to invoke its plenary constitutional authority over Native affairs.” Thus, in order to fulfill the purposes of ANCSA, ANILCA maintained that the federal government still had a trust responsibility toward Alaska Natives on all national interest lands.

In the 1940s and '50s, NPS's mismanagement fostered by both their actions and inactions created an environment in which Huna Tlingit's subsistence uses were "squeezed out" of Glacier Bay. The NPS repeatedly ignored requests by Natives and their own staff to address the Huna Tlingit's subsistence use rights issue.

Originating from the failure to recognize and deal with the Huna Tlingit's tribal claim, and extending to confusion in what the changes in Glacier Bay designations meant, culminated in vigilantism by white homesteaders who ran off Natives at gun point, destroyed their cabins and told them the government had given them permission to do so. NPS officials reported this as positive action and by failing to stop such action, encouraged it and disenfranchised Huna Tlingits.

The limited presence and complete lack of enforcement led to unwarranted assumptions due to mis-information that the Huna Tlingit did not use Glacier Bay for subsistence uses, which was later used inappropriately under ANILCA's case-by case analysis as a determining factor in failing to qualify as needing a subsistence use study.

All along, any reasonable review of their own administrative files would have proven subsistence uses existed and could not have been overlooked so many times. But it was. If the NPS had acknowledged the subsistence uses, it would have been incumbent upon them to do a study which would have provided the basis for their protection. Had the study been done, the Huna Tlingits subsistence uses in Glacier Bay National Park would be protected today. Without such studies, which were required for eight of the nine other national parks created in Alaska, subsistence uses were excluded from Glacier Bay National Park.

Throughout the 95th and 96th Congress, NPS and the Department of the Interior consistently took the public position that subsistence hunting, fishing and gathering should be allowed in the addition to the park. The Antiquities Act proclamation (which NPS participated in writing in December 1978) which withdrew the Glacier Bay addition explicitly authorized subsistence hunting, fishing and gathering.

The most telling of NPS's zeal to obtain what it wants occurred in a Senate Committee hearing on H.R. 39 (July 1978), when the coordinator for the NPS knowingly misled the Senate Committee about an agreement the National Park Service and the Alaska Federation of Natives had reached in the House legislation which would have provided for subsistence uses in all the new parks created. As a result, the legislation required subsistence uses in Alaska National Parks to be determined on a case-by-case basis, allowing for Glacier Bay National Park to be closed to subsistence use.

The issue is whether the NPS is to define the relationship of humankind and nature in Glacier Bay according to traditional NPS standards or according to the standards developed in ANILCA.

If maintaining Glacier Bay with an environment that does not allow for the role of man is the policy for management of Glacier Bay National Park, then the NPS should be forthright and direct in stating that policy.

Western man's inability to understand and equate the kind of spiritual relationship with nature that Huna Tlingit's have with their subsistence uses in Glacier Bay has been a constant theme played out through its history. Unable to fit Native use of the area into their frame of reference, they simply disregard it.

The management goals evolved from scientific research, biological study, habitat protection and wilderness preservation with each change bringing further challenge to and limitation of subsistence uses. The continual renegotiation of the Park's cultural meaning changed the concept of nature and man's role in it to ultimately preclude man from the natural setting. How can this be done when the Native has been part of that natural setting in the Glacier Bay area for 9,000 years?

Thus, the NPS's policy itself is altering natural conditions. The cost of such a misdirected policy is to take away the Huna Tlingit's cultural right to survive by placing the survival of all forms of life above man himself, thereby disregarding the proper role of man in nature as an equal. This is particularly ironic and exposes an apparent inherent contradiction in NPS's mandate to preserve nature while making it available for public viewing. Can't we assume the tour ships, facilities, tourists, kayakers, campers and hikers impact that nature?

The impact of the Huna Tlingit's subsistence uses in Glacier Bay National Park would be minimal in comparison.

The Huna Tlingit's subsistence use has never been a priority in the management plan for the Park. Their interests always have been, and are today, considered of less value than the priority values which have changed with each modification of land designation that Glacier Bay has gone through. Moreover, the past NPS treatment of the Huna Tlingit's concerns carried a belief that if left unaddressed or unattended, would lessen and possibly even go away. They were not then, and are not now perceived as being significant enough for the NPS to make significant provisions for by changing or altering the "status quo" of a national park designation.

The NPS has taken the firm position that any recognition of subsistence uses in the Glacier Bay National Park management plan will be only under the authorization of their Organic Act as opposed to authorization under ANILCA.

Whether the Huna Tlingits' subsistence uses are afforded the same protection as Alaska Natives possess in the other National Parks in Alaska or some level of consideration less than that, which the NPS develops in its management plan, has major implications. Under ANILCA, subsistence uses are afforded to rural residents, both Native and non-Native, while the NPS's management plan for limited subsistence uses is for Natives only. The NPS has opposed attempts to afford Huna Tlingits subsistence uses under ANILCA due to their anxiety that to allow Native and non-Natives to participate in the utilization of resources in the Park is in opposition to their management plan to try to limit human impact and use of the Park.

The NPS's management authority enables considerable flexibility which may allow for subsistence uses in Glacier Bay National Park. Unfortunately, given the record of the NPS and its current stance, it is very unlikely they will make such a major concession without significant provocation, for allowing subsistence uses in Glacier Bay National Park like that of the other National Parks in Alaska.

Presently, the Hoonah Indian Association and the National Park Service have a Memorandum of Understanding which recognizes a government-to-gov-

ernment relationship and establishes a communication mechanism for interaction. Although it contains no reference to subsistence uses, it is being used for discussion of subsistence uses and has resulted in studies to determine their compatibility with other park values. The level of recognition afforded subsistence uses is nowhere near that afforded to Alaska Natives in the other National Parks in Alaska.

Both the Huna Tlingit and the NPS have an interest in Glacier Bay. Good relationships and agreements come from both sides compromising in order to move forward. The Huna Tlingits subsistence use rights, which are the basis of their cultural existence, have been compromised to the point of being almost non-existent. Can the NPS show such a degree of compromise and more importantly, would affording subsistence use protections similar to ANILCA jeopardize their ability to manage the park or place any of the resources at risk?

It is reasonable to assume that the NPS clings to the organizational structure of the IRA primarily as a matter of convenience. It enables the NPS to limit the number of Natives they must negotiate with and cover all issues, without sufficient consideration to those who may be affected by the representation.

The issue of proper or adequate representation of the issue needs to be addressed as a number of Huna Tlingits live outside of Hoonah. Moreover, the descendants of the Huna Tlingits also have a valid interest in preserving subsistence use rights in Glacier Bay.

Congress recognized that the extinguishment of aboriginal title would have to be accompanied by legal protections of the Native's continued subsistence use of public lands. Only Congress can ensure that the guarantees of protection for subsistence uses originating from ANCSA, ANILCA and MMPA will be afforded the Huna Tlingits in Glacier Bay National Park.

Only through pressure of proposed legislation or actual passage of legislation clearly mandating for this protection will the injustice be corrected. Congress knows the clear legislative intent for protection which the Natives bargained for. Congressional assurances to Alaska Natives through an agreement on H.R. 39 are unequivocal. The NPS's actions circumventing this protection were knowingly represented to the Senate, as were agreements made for this protec-

tion. They also knowingly claimed there were no subsistence uses in Glacier Bay when their own records showed they existed.

Congress must show its concern by clearly establishing Huna Tlingit's subsistence use protection as a priority over the other values and issues of the Park. The NPS has consistently demonstrated their unwillingness to do this and will fail to do so unless otherwise compelled.

This issue should not be left to the courts to resolve. They do not have the extensive background Congress has on this issue, and may attempt to resolve this issue by a strict and limited reading of the law. Moreover, they would undoubtedly prefer that Congress establish the policy. Unfortunately, one cannot expect the NPS to adequately address this without sufficient prodding, given their history of opposition, despite the fact that NPS acknowledges that the Huna Tlingits have some sort of a subsistence use claim and is conducting studies on those uses. It is clear that whatever concessions that may be made will not be at the same level or extent afforded subsistence uses in the other National Parks in Alaska.

Given the current status of the subsistence issue, with the State of Alaska refusing to afford the same protection as granted by Congress and a Federal takeover eminent, there is a compelling need for Congress to reaffirm its commitment to Native people to protect their subsistence uses by addressing the Huna Tlingit's subsistence use issue in Glacier Bay. In doing so, Congress will make clear that it will not sit by and allow agencies to find ways to circumvent this negotiated protection.

The protections in ANILCA and the MMPA would afford the Huna Tlingits an effective voice in the planning and implementing of programs that protect and promote subsistence uses. An analysis of "co-management" and Native self-determination as the goal for federal policy on subsistence is examined by David S. Case (Appendix 33).

Huna Tlingit's subsistence uses are an integral part of their culture which must be maintained to lead them into their future — as this culture must and will provide a bridge to deal with modern problems. Preserving ecosystems without their human constituents or creating wilderness at the expense of Native cultures would be hollow achievements and ultimately self-defeating.

This is not ancient history, or a historical injustice Congress can do nothing about. Today, Huna Tlingits are not allowed subsistence uses in Glacier Bay National Park. They are among the last of the aboriginal Americans still striving to live as they always have, on their homelands. There has to be room in the American system for them to survive.

FOOTNOTES

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3. A Special Report – Containing Information Required for Legislation to Re-designate Glacier Bay as a National Park; U.S. Department of Interior, National Park Service (September 30, 1964).
4. The National Park Service and Subsistence: A Summary T.S. Newman, National Park Service, (November 1977).
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