"An Act relating to the Cook Inlet Land Exchange; e.d."

COMMITTEE REPORT

2/18/76

HOUSE

Mr. Speaker: Date March 5, 1976

The Committee on JUDICIARY has had HB 784

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR HB 784 AND THAT CS FOR _____ DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

Members NOT con urring in the Majority report:

_____ recommends:

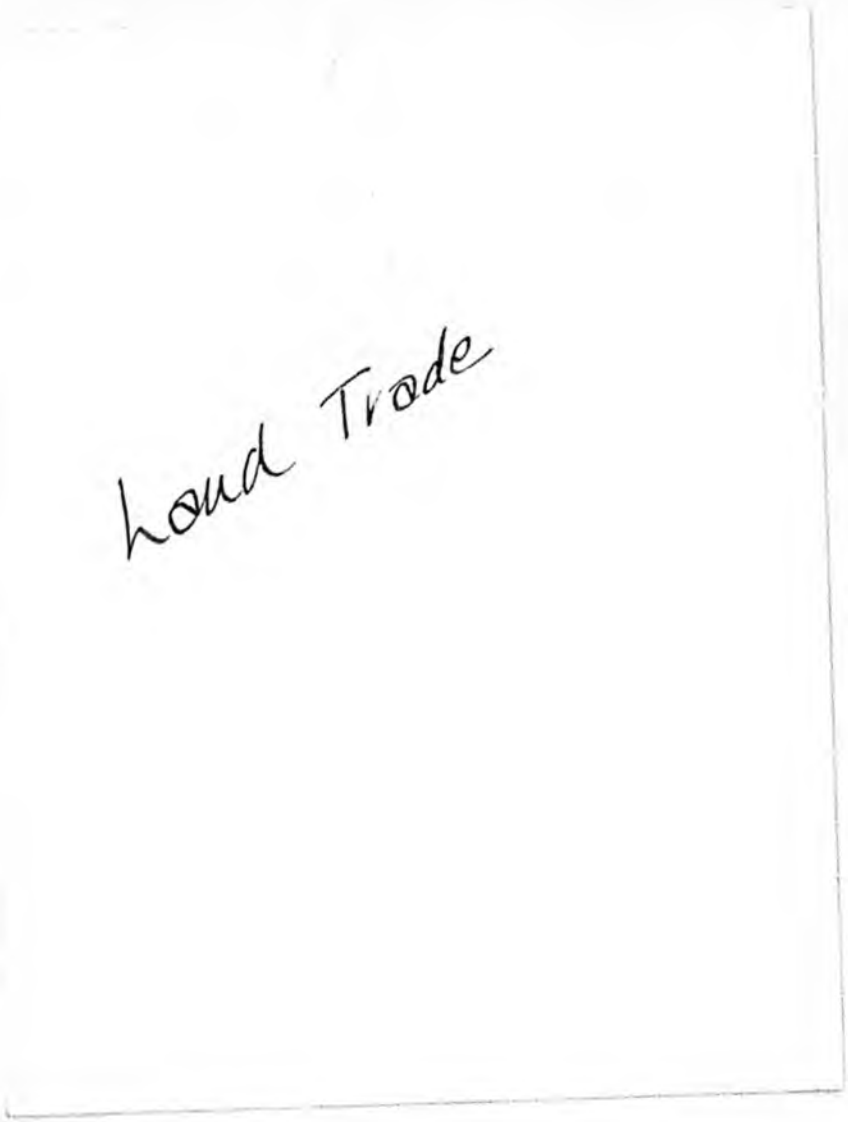
_____ recommends:

_____ recommends:

Ford Brown recommends: No Rec.

Eliason recommends: No Rec.

_____ Chairman


Loud Trade

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Geological & Geophysical Surveys

TO: Michael C.T. Smith, Director
Division of Lands

DATE: January 2, 1976

FILE NO:

THRU: Guy R. Martin, Commissioner
Department of Natural Resources

TELEPHONE NO:

FROM: Cleland N. Conwell CNC
Mining Engineer

SUBJECT: Mineral Analysis of Proposed Cook Inlet Land Trade

On or about the 8th of October, Ross Schaff, Don McGee, and I met with you in your office to advise you of the value of coal land the State was proposing to give away. It is my recollection that we advised you at that time of the value of coal on these lands and of work in progress by the private sector in exploring the Beluga coal field. As I recall, all three of us, expecially Ross and I, expressed personal disproval of the trade. It was and is our opinion that some of the most valuable land in the State is being traded for land that has little or no economic potential.

In direct comment on the articles by Mr. Galliett:

Don McGee and K. O'Connor in AOF 51, page 7, estimate 7.8 billion tons of coal in the Beluga field. Therefore, Mr. Galliett has a reference from a report of the Alaska Geological Survey. My only comment on the first article is that recovery of 50% of the coal is low by todays standards.

In reference to the second article, it is my understanding that Fish and Game have control of fishing and the streams. I believe that this is covered in Section 16 of the State Statuates, so there is no need to control the Lake Clark or Iliamna areas for the fishing potential.

In the 3rd article, Galliett appears to be accurate. I am sure we could check on the number of natives and the allocation, but the figures are approximately those that I have read.

With regard to the specific "Lands to be given by the State to CIRI":

Ft. MacKenzie (Appendix C - 1.B)and This is within the Anchorage area and is a valuable section for port facilities.

Knik-Willow (Appendix C - 1.B and 3) — This is an excellent recreation area near Anchorage. It contains the Nancy Lake State Recreation area, Meadow Creek Campground, and many lakes. There is both a coal potential and oil and gas potential in the area. Coal at one time was mined at Huston.

Kashwitna (Appendix C - 1.B) — This is prime agricultural land - Ref: Alaskas Agricultural Potential, Alaska Rural Development Council, Publication No. 1, 1974. It also contains a site selected for the future capitol of Alaska. It is accessable by road and railroad, and has many home sites. The land has potential for fossil fuels and uranium.

Chickaloon (Appendix C - 1.D and 3) — This is excellent coal land and part is under coal lease. Coals in this area have a higher calorific value than the Beluga area, i.e., 7,200 Btu Beluga vs. 12,000+ Btu Matanuska. Some of the Matanuska coals have coking qualities. Therefore, Matanuska coals have a higher market value than Beluga coals. The railroad right-of-way to the area is retained by the Alaska Railroads. There are excellent home sites in this area.

Alexander Creek (Appendix C - 1.D and 3) — Coal, oil, gas, and uranium potential.

Salamatof (Appendix C - 3) and Kenai Peninsula (Appendix C - 1.E and 3) — These are excellent coal lands. The coals are nearly horizontal, therefore, favorable for mining. Several beds at least 5 feet thick underlie the area. Undoubtedly there are at least 11.7 billion tons of coal in these areas. In addition to the loss of coal there would be a loss of recreation along the beaches of the peninsula. This includes both clam digging and fishing. I have been informed by native groups that they intend to protect these rights, and prohibit non-natives from trespassing. A law suit on this matter is presently in court (Edwardsen vs. Morton). These lands also have a high agricultural potential. In the case of strip mining the agricultural potential could be utilized the year following cessation of mining.

Beluga (Appendix C - 2(a)) — This area contains the outcrops of the Capps and Waterfall coal beds which can have respective thicknesses of 27 and 50 feet. Some sections could contain 70 million tons of coal with a stripping ratio of less than 3 to 1. One township could contain 2.5 billion tons of coal. This is also an area of high agricultural potential, and experimental work has proven that reclamation can be done after strip mining.

In regard to the lands to be given to the State by the Federal Government:

In general, these lands are underlain by Jurassic intrusives that have a low mineral potential for hard minerals, lack equivalent agricultural potential, lack the recreational value, because of inaccessability, and, if not selected by the natives might still be open to selection by the State.

In regard to the report by Dobey, Welch, and O'Connor:

There are many misleading statements in the report. I find errors in the calculations regarding the discounted cash flow. The Stanford Research Institute has a report issued in 1975 that gives figures that conflict with those of Robert Bottge. Nevertheless, assuming the inaccurate figures do have meaning, should the State give away such valuable revenue producing land?

By a separate memorandum I am requesting the report by Dobey et. all, be kept for in house use and not issued as an open-file report by the Division of Geological and Geophysical Surveys.

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Geological & Geophysical Surveys

TO: Guy Martin, Commissioner of Natural Resources

DATE: January 2, 1976

FROM: Gil Eakings, Acting State Geologist

FILE NO:

TELEPHONE NO:

FROM: Cleland N. Conwell
Mining Engineer

SUBJECT: Economic Resource Analysis of Measured and Indicated Coals
November 28, 1975
P.L. Dobey, J. Welch, K.M. O'Connor

At the request of Gil Eakins, Acting State Geologist, I have reviewed the subject report. I find that the report is misleading, contradicts Alaska Geological Survey open file report #51, is inaccurate and biased. I respectfully request that the report not be published as an open file report under your name and that of Ross G. Schaff. It may be of some use to Mike Smith within the department, but I feel that the quality is too low to justify publications as a Division Report. If published, the report certainly should be reviewed by Ross Schaff beforehand.

02-001B (REV. 66-73)

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Geological & Geophysical Surveys

TO: Michael C.T. Smith, Director
Division of Lands

DATE: January 2, 1976

FILE NO:

THRU: Guy R. Martin, Commissioner
Department of Natural Resources

TELEPHONE NO:

FROM: Gilbert R. Eakins GRE
Acting State Geologist

SUBJECT: Mineral Analysis of Proposed Cook Inlet Land Trade

In response to your letter of December 29, 1975 to Ross Schaff, I requested Cleland Conwell, State Mining Engineer, to review the three newspaper articles by Harold Galliett and again to assess the tracts of lands involved in the proposed land trade.

I concur with Mr. Conwell's assessment that it is not in the best interests of the State to make the proposed land trade. A purely economic view indicates a high potential dollar value of the tracts to be traded to the Cook Inlet Native Association. Large reserves of quality coal are known, agricultural lands are present, and a reasonably good potential exists for petroleum and uranium. In addition, the lands to be given to CINA have wisely been selected near populated areas and where industrial and population growth may be expected. We believe the potential revenues are very significant and that an attempt to put a discounted cash value on the resources today is not a fair evaluation.

In contrast, the lands to be received by the State in the trade do not appear to have an important mineral potential, are relatively inaccessable, and are not suitable for development.

cc: Ross Schaff, State Geologist

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

J. R. LEWIS and HAROLD H. GALLIETT, JR., Citizens and Taxpayers of the State of Alaska,	)
Plaintiffs,	)
vs.	)
STATE OF ALASKA; GOVERNOR JAY HAMMOND; GUY R. MARTIN, Commissioner of Natural Resources; MICHAEL C. T. SMITH, Director, Division of Lands,	)
Defendants.	)

No. 76-1608

MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Plaintiffs, pursuant to Alaska Civil Rule 23, have commenced this action for permanent injunction not only on their own behalf but on behalf of all citizens and taxpayers of the State of Alaska. Plaintiffs are alleging and intend to prove that the Beluga land exchange contemplated by the Hammond Administration as alleged herein violates the provisions of the United States Constitution, the Alaska Statehood Act, and the Alaska Constitution.

Plaintiffs allege that if the actions of the governor and his administration in approving the land exchange are not restrained and enjoined, the citizens of the State of Alaska will be the victims of an even greater governmental give-away through the loss of valuable mineral resources than occurred during the Teapot Dome scandal of President Harding's administration years ago.

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Plaintiffs wish to emphasize that this is not a political lawsuit nor a lawsuit to harass or embarrass the Hammond Administration. The issues presented herein are very real and substantial issues involving questions concerning the State's mineral resources which will affect the citizens and taxpayers of the State of Alaska for generations to come.

Although the facts are summarized in detail in the complaint filed in this case, the chronological sequence of events is set forth again, and the basis of plaintiffs' legal claims are further set forth below..

A. FACTS

1. The chronological sequence of events leading to the present dispute can be summarized as follows:

In 1955 the then Territory of Alaska, through its legislature, provided for a constitutional convention. Elected delegates adopted a constitution on February 5, 1956 which was ratified by the people of Alaska on April 24, 1956. This constitution adopted by the people of Alaska served as a basis for subsequent petitions to Congress for statehood and constituted an offer to accept the privileges and responsibilities of that status in accordance with the terms of said constitution.

2. Article VIII, Section 9 of the Constitution of the State of Alaska provided in part as follows:

> Section 9. Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources.

3. Two years after the people of Alaska adopted the above constitutional provisions, Congress passed the Alaska

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Statehood Act, approved on July 7, 1958. Sec. 6(i) of the Statehood Act is a direct response by Congress to the provisions contained in Article VIII, Sec. 9 of the Alaska Constitution set forth above. The Alaska Statehood Act stated in this section as follows:

> All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented, ...

Sec. 6(i) of the Act further provided that any lands or minerals disposed of by the State of Alaska contrary to the provisions of the above section would be forfeited to the United States by appropriate proceedings instituted by the Attorney General.

Sec. 8(b) of the Statehood Act provided, in addition, that:

> In the event each of the foregoing propositions (grants of land restrictions approval by majority vote in statehood election) is adopted at said election by a majority of the legal votes cast on submission, the proposed constitution of the proposed. State of Alaska, ratified by the people at the election held on April 24, 1956, shall be deemed amended accordingly. (Emphasis supplied)

4. By Public Law 92-203, 85 Stat. 688, approved December 18, 1971, Congress enacted the Alaska Native Claims Settlement Act. This Act provided for the fair and just settlement of all claims by native groups in Alaska based upon their aboriginal land claims. All prior conveyances of public land pursuant to federal law and all tentative approvals pursuant to Sec. 6(g) of the Alaska Statehood Act were declared to be an extinguishment of the aboriginal title of Alaska natives.

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The Act further provided for 12 geographic regions within the State and for appropriate regional native corporations which were given the right to select land and share in the revenues from the sale of minerals. Sec. 12 of the Alaska Native Claims Settlement Act provided for the selection of land by each village corporation within the township in which the village is located, plus an area that would make the total selection equal to the acreage to which the village was entitled under Sec. 14 of the Act.

5. Because of existing federal withdrawals, state land selection and other non-native settlement patterns within the Cook Inlet region, Cook Inlet Region, Inc., a native corporation, was not able to select lands which it considered of like and similar character under the formula established by the Alaska Native Claims Settlement Act. For approximately three years following the enactment of this Act, Cook Inlet Region, Inc. negotiated with the Secretary of the Interior in an attempt to insure its land selection of a similar and like character.

6. Cook Inlet Region, Inc. was dissatisfied with these negotiations with the United States Department of the Interior, and it filed suit in a District Court. Negotiations continued, however, and the solicitor for the Department of Interior made an offer to convey to Cook Inlet Region, Inc. ten surface and fifteen subsurface townships within the Kenai National Moose Range, including the Swanson River oilfield, as well as additional federal lands in the then Greater Anchorage Area Borough. These lands included land at Point Woronzof, Point Campbell, and a sizable portion of the Campbell air strip tract. Cook Inlet Region, Inc. declined this offer andit was later withdrawn

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by the Department of the Interior.

7. The United States District Court ruled in favor of the Secretary of the Interior and against Cook Inlet Region, Inc. in February of 1975. Pending the appeal of the case to the Ninth Circuit Court of Appeals, Cook Inlet Region, Inc. appealed to Congress for legislative relief. Despite the fact that Cook Inlet Region problems were solely with and concerning the federal government and federal land, the State entered into the negotiations in an attempt to help solve the problems between the Cook Inlet Region and the federal government.

8. The United States District Court ruled in favor of the Secretary of the Interior and against Cook Inlet Region, Inc. in February of 1975. Pending the appeal of the case to the Ninth Circuit Court of Appeals, Cook Inlet Region, Inc. appealed to Congress for legislative relief. Despite the fact that Cook Inlet region problems were solely with and concerning the federal government and federal land, the State entered into the negotiations in an attempt to help solve the problems between the Cook Inlet Region and the federal government.

9. The State, Cook Inlet Region, Inc., and the Department of the Interior entered into the negotiations concerning the exchange of lands pursuant to Sec. 22(f) of the Alaska Native Claims Settlement Act which provided as follows:

> The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange any lands or interests therein in Alaska under their jurisdiction for lands or interests therein of the Village Corporations, Regional Corporations, individuals, or the State for the purpose of effecting land consolidations or to facilitate the management or development of the land. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

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10. Pursuant to the exchange provisions cited above, the State volunteered the trade of various patented lands to the Department of the Interior for exchange and grant to the Cook Inlet Region, Inc. The terms of the settlement were, in summary, that the State of Alaska obligated itself to convey lands to the United States for exchange with Cook Inlet Region, Inc. in accordance with "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" made a part of the report from the Committee on Interior and Insular Affairs accompanying HR 6644, the amendment to the Alaska Native Claims Settlement Act. Further, Cook Inlet Region, Inc. was to dismiss its lawsuit in the case of Cook Inlet v. Kleppe, 75-2232, Ninth Circuit Court of Appeals; and other native village selections under Sec. 12 of the Settlement Act concerning lands within Lake Clark, and other areas outside the Cook Inlet Region, Inc., would be withdrawn to enable the exchange to take place by substituting land outside Cook Inlet region. These terms are summarized in Sec. 12(a) of Public Law 94-204, known as Alaska Native Claims Settlement Act Amendments, approved January 2, 1976. Sec. 12(f) of the Amendments states that all conveyances of lands made or to be made by the State of Alaska in satisfaction of the Terms and Conditions "shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to Sec. 22(f) of the Settlement Act."

11. Sec. 17 of the Amendment purports to amend Sec. 22(f) of the Alaska Native Claims Settlement Act by stating that in any exchange made pursuant to Sec. 22(f), the State may convey its lands, "free of the restrictions of Sec. 6(i) of the Alaska Statehood Act."

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12. In the "Terms and Conditions" contained within the report accompanying HR 6644, Sec. II at P. 42, the State of Alaska was asked to give its consent to the exchange and settlement agreement within sixty days of the commencement of the 1976 session of the Alaska State Legislature. Upon such consent being given, the State of Alaska is bound to convey to the United States for reconveyance to Cook Inlet Region, Inc. the lands set forth within the "Terms and Conditions." Plaintiffs allege on information and belief that said consent must be given, if at all, prior to March 12, 1976.

13. In an attempt to implement Sec. 22(f) of the Alaska Native Claims Settlement Act, the Alaska legislature, in 1972, enacted what is now Sec. 38.95.060 Alaska Statutes which authorizes the exchange of state land with a native corporation "with the consent of the governor," when the purpose is to effect land consolidations or to facilitate the management or development of the land. Similar to ANCSA, Sec. 22(f), the Alaska Statute provided that exchanges shall be on the basis of equal value, with either party being allowed to accept or pay cash in order to equalize the value of the properties exchanged.

14. The governor and the State, through its Commissioner of Natural Resources and Director of the Division of Lands, is proposing to give away large parcels of land andis also proposing to convey the subsurface mineral rights in such a manner as would convey all the coal, oil and gas resources of the lands. The State is proposing to give away the following estimated resources (see pages 4-13, Affidavit of Harold Gallagher):

Present value of coal	$4,732,000,00
Minimum probable present value of oil and gas	62,500,00
Present value of surface estate	451,605,00
TOTAL	$5,246,105,00

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The State proposes to receive the following estimated value as a result of the exchange:

Present value of surface estate	165,917,440

From the above summary of the exchange values, the net result to the State of Alaska is as follows:

Net loss	$5,080,187,560

15. In an attempt to rush this matter through the legislature, in complete disregard of the constitutional and statutory impairments to the execution of the exchange, the Hammond Administration, on February 17, 1976, introduced Senate Bill No. 674 which purports to give the Commissioner of Natural Resources authority to execute the exchange of land "notwithstanding any other provision of law." This bill provides in part as follows:

> While the land exchange is authorized by existing law, the vagueness and ambiguity of the provisions of the applicable law create a situation which may well involve protracted and devisive litigation and continuing uncertainty and disruption with respect to public and private land management. The law on the subject will be amended to remove any vagueness or ambiguity, but the timing for the land exchange requires action now, before amendment for clarification of the general law on land exchanges. (Emphasis supplied)

Senate Bill No. 674 is now the subject of legislative hearings and possible future action before March 12, 1976.

B. THE PROPOSED EXCHANGE VIOLATES ARTICLE VIII, SECTION 9, CONSTITUTION OF THE STATE OF ALASKA AND SECTION 6(i) OF THE ALASKA STATEHOOD ACT

Any rational consideration of the merits of plaintiffs' claims must keep in mind the distinction between laws and acts of the legislature, or of Congress, and the fundamental or basic law as set forth in the Alaska Constitution and its com-

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pact with Congress as accepted in the Alaska Statehood Act.

The general rule is that a "constitution" in the American sense of the term is the fundamental or basic law to which all others must conform; it serves to protect the people against arbitrary power; and a state constitution, like that of the nation, is the supreme law within the realm and sphere of its authority and is a limitation on the power of the legislature, binding on the several departments of state government, and the people themselves. 16 C.J.S. Constitutional Law, §3 at p. 23-26.

When a state constitution makes definite provisions covering a particular subject, that provision is exclusive and final, and must be accepted unequivocally. Hence, constitutional provisions may not be abrogated by the legislature or in any way other than by changing the constitution itself, and a right granted by the constitution, when unconditional, cannot be defeated, even in part, by statute. 16 C.J.S. Constitutional Law, §3 at p. 26.

In addition to the above general propositions, and as a corollary to these fundamental and basic rules, is the rule of law that the provisions of a state constitution, when accepted by Congress as a basis for admittance of the State into the Union, create a compact which cannot unilaterally be changed by an act of Congress or by an act of the state legislature without proper amendment to the State Constitution approved and ratified by a vote of the people. Metlakatla Indian Community v. Egan, 362 P.2d 901, 911 (Alaska 1961); State v Commissioners, 301 P.2d 655 (Okla. 1956); Opinion of the Attorney General, No. 6 (Alaska 1969).

As set forth in the Statement of Facts, supra, Article VIII, Sec. 9, Constitution of the State of Alaska, states

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that "all sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State . . . ."

The above provision of the Alaska Constitution constituted an offer to the federal government that, upon admittance to the Union as a state on equal footing, the State would abide by all restriction upon the conveyance of state lands as required by the State or Congress. This offer was accepted in Sections 6(i) of the Alaska Statehood Act, which states that "the grants of mineral lands to the State of Alaska under subsections (a) and (b) of the section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral rights so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented . . . ."

Section 6(i) of the Alaska Statehood Act further stated that any lands or minerals disposed of by the State of Alaska contrary to the provisions of the above section would be forfeited to the United States by appropriate proceedings instituted by the Attorney General.

The offer of the State as contained in Article VIII, Section 9 of the Constitution, and acceptance of that offer through the restrictions contained in Section 6(i) of the Alaska Statehood Act, constituted a compact between two sovereign states, the purpose of which was obviously to protect the people of the State of Alaska against the arbitrary, capricious or fraudulent conveyance of the mineral rights of the State which were reserved exclusively for the citizens of the State of Alaska forever. Neither an act of Congress nor an act of Alaska legislature can unilaterally amend or change the provision of

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this compact without a proper vote of the people of Alaska.

Section 17 of the Amendments purports to amend Section 22(f) of the Alaska Native Claims Settlement Act by stating that in any exchange made pursuant to Section 22(f), the State may convey its lands "free of the restrictions of Section 6(i) of the Alaska Statehood Act." As set forth above, Section 6(i) of the Alaska Statehood Act is a part of the compact with the people of the State of Alaska through Article VIII, Section 9 of the Alaska Constitution. Pursuant to Sec. 8(b) of the Statehood Act, the Alaska Constitution was "deemed amended accordingly, "and Sec. 6(i) is therefore a part of Article VIII, Section 9 of the Alaska Constitution.

For the sole purpose of obtaining state land and its mineral rights to satisfy a federal obligation to the natives of Alaska, the federal government has attempted illegally to change the provisions of the Statehood Act, and indirectly, the Constitution of the State of Alaska.

The Supremacy Clause of the United States Constitution does not allow an act of Congress to waive or change provisions of a state constitution without an appropriate vote of the people through constitutional amendment, initiative, or referendum. Boeing Aircraft Company v. R. F. C., 171 P.2d, 838 (Wash. 1946). In this case, the Supreme Court of Washington sitting en Banc was asked to hold that an act of Congress allowing property to be taxed within the State of Washington changed, through the Supremacy Clause, the provisions of the Washington Constitution prohibiting the tax. The court replied:

> We cannot so hold, for to do so would effectively do away with the provisions of our state constitution by subjecting those provisions to be continually changed by acts of Congress. The Constitution of

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> the United States has not given that power to Congress, and Congress has only the powers expressly given it by the constitution of the United States. The American system of government is dual in nature, containing Federal and state sovereignties, each supreme within its appropriate sphere. The states do not get their power from the Federal government, but from the constitution of the United States. They exercise those powers independently of the Congress of the United States. The Federal government has no power to control the power or authority of the State except as such power may have been expressly granted, or as may be necessary to maintain the acknowledged powers of the Federal government. 171 P.2d at 842.

The Supreme Court of Washington further discussed the provisions of the enabling act admitting Washington into the Union and the extent of subsequent permissible federal control over state matters:

> True, Congress may determine the circumstances under which a state may be admitted into the Union, but that does not give it any powers to change or modify either directly or indirectly, the provisions of the state constitution. 171 P.2d at 842.

The Supreme Court of Alaska has also spoken on the issues now before this court in the case of Metlakatla Indian Community v. Egan, 362 P.2d 901 (Alaska 1961). Plaintiffs submit that this case is dispositive as to whether or not Section 17 of the Amendments to the Alaska Native Claims Settlement Act, in waiving Section 6(i) of the Alaska Statehood Act, is invalid and in violation of the state and federal compact.

In the Metlakatla case there was a dispute about the legality of the state prohibition of the use of fish traps for the taking of salmon in all of the coastal waters of the State. The Metlakatla Indian community claimed that their fish traps were exceptions to the prohibitions contained in

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the Constitution and laws of the State of Alaska because they were authorized by the Secretary of the Interior pursuant to federal law.

In determining whether the State or federal government exercised authority over fish traps of the Metlakatla Indians, the Supreme Court of Alaska carefully compared the appropriate provisions of Section 4 of the Alaska Statehood Act with Section 12, Article XII, of the Alaska Constitution. Section 12, Article XII, of the Alaska Constitution specifically agreed on behalf of the State that "unless otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States." As quoted out by the Supreme Court of Alaska, the corresponding acceptance contained in Section 4, Alaska Statehood Act, stated that "all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States . . . ."

Section 4 of the Alaska Statehood Act did not specifically reserve to the exclusive jurisdiction and control of the United States the fishing rights earlier mentioned in Section 12, Article XII, Constitution of the State of Alaska. Therefore, three days after the fishing trap controversy arose, Congress enacted a law which stated as follows:

> Section 4 of the act of July 7, 1958, (72 Stat. 339), providing for the admission of the State of Alaska into the Union, is amended by striking out the words 'all such lands or other property, belonging to the United States or which may belong to said natives', and inserting in lieu thereof the words 'all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held

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> by the United States in trust for said natives.'

In determining the effectiveness and validity of the federal attempt to amend the Alaska Statehood Act, the Supreme Court of Alaska pointed out that, as required by the Alaska Statehood Act, the following proposition was submitted to the qualified voters of Alaska on August 26, 1958:

> (3) All provisions of the Act of Congress approved (date of approval of the Statehood Act) reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people.

The Supreme Court of Alaska further noted that this proposition was approved by a vote of 40,739 to 7,500 on August 26, 1958. The Supreme Court of Alaska stated:

> Section 4 of the Alaska Statehood Act is a direct response by Congress to the provisions contained in the five sentences of Section 12 of Article XII of the Alaska Constitution. The two sections constitute a compact between sovereigns . . . . The compact or contract between Alaska and the United States became effective upon approval of the terms of the Alaska Statehood Act by the voters of Alaska. 362 P.2d at 909, 910.

The Metlakatla Indian community argued that the congressional amendment to the Statehood Act was a part of the compact and merely "clarified" the original intent of Congress. The Supreme Court of Alaska held as follows:

> We cannot accept this reasoning. It is our view that the amendment forms no part of the compact between Alaska and the United States. It was not enacted until ten months after the voters of Alaska had ratified the compact, six months after Alaska had attained Statehood, and three days after these controversies had arisen. This portion of Section 4 reserves absolute jurisdiction and control in the United States. As originally enacted, it applied only to "lands or other property".

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> As amended, it purports to include fishing rights . . . . The conciseness of and correlation between the pertinent sentences of the Alaska Constitution and the responding portions of Section 4 leave no room for the construction appellants urge. 362 P.2d at 911.

The Metlakatla Indians further argued that the Congressional amendment to Section 4 of the Alaska Statehood Act transcended the police power of the State under the Supremacy Clause of the United States Constitution. This argument also was rejected by the Supreme Court of Alaska, which stated that the power of a state to control and regulate the taking of fish and game within its borders has always been recognized by the Supreme Court of the United States as a purely state concern. Also, to withhold sovereignty over the State's inland waters from the State would be a violation of the equal footing doctrine by which the State of Alaska was declared admitted to the Union upon an equal footing with all other states. 362 P.2d at 913, 925, 927.

(*) In the same manner that the federal government attempted to amend the Statehood Act concerning the fish trap controversy, Congress in Section 17 of the Amendments to the Alaska Native Claims Settlement Act attempts to waive Section 6(i) of the Alaska Statehood Act which expressly prohibit the conveyance of the mineral rights belonging to all the citizens of Alaska. Also, Section 17 attempts to induce (perhaps seduce is the better word) the State to convey away its mineral rights in violation of Article VIII, Section 9, of the Constitution of the State of Alaska.

Neither the Alaska Constitution nor the Alaska Statehood Act stand alone in defining the nature of the compact between the two sovereigns; both must be read together in the nature of an offer and an acceptance concerning the grant of lands to

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the State with the reservation of all mineral rights being required as a condition of such grants. Section 8(h) of the Statehood Act expressly amends Article VIII, Section 9 to conform to Section 6(i) of said Act.

Article XIII, Constitution of Alaska, provides for amendment and revision. Amendments to the Constitution may be proposed by a two-thirds vote of each house of the legislature, and if approved by a majority of the votes cast at the next statewide election, the amendment is adopted. Section 3 of Article XIII provides for a constitutional convention by referendum. Again, a majority of the votes cast determines the issue. Article XI of the Constitution provides for initiative and referendum. Again, if a majority of the votes cast on the proposition favor its adoption or rejection, the issue is determined. In any case, there is more than adequate provision contained in the Alaska Constitution for the enactment of a law which would amend or change Article VIII, Section 9 should the people of Alaska desire to convey away their mineral rights.

In the absence of a proper demonstration of intent of the citizens of Alaska to waive or change the provisions of Article VIII, Section 9, of the Constitution, any attempt to convey away the mineral rights belonging to the people should be held to be in violation of this section and in violation of the compact provisions between the State of Alaska and the United States pursuant to the State Constitution and the Alaska Statehood Act. The opinion of the Supreme Court of Alaska in the Metlakatla case and the express terms of Article VIII, Section 9, Constitution of Alaska, compel such a conclusion.

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C. THE ALASKA ATTORNEY GENERAL OPINIONS DECLARE THE PROPOSED EXCHANGE IN VIOLATION OF STATE AND FEDERAL LAW

The State of Alaska through its Attorney General's office in 1969 was previously concerned with the same issues discussed above. In conjunction with negotiations and congressional hearings prior to the enactment of the Alaska Native Claims Settlement Act, the question arose as to whether or not it would be legal to grant to the natives of Alaska an overriding royalty of 2% on all proceeds from any state and federal land.

In the 1969 Opinion of Attorney General, No. 6, the Attorney General presented his opinion to the Honorable Wayne N. Aspinall, Chairman of the Committee on Interior and Insular Affairs for the U. S. House of Representatives. The State of Alaska in this lengthy opinion took the clear position that the State could not convey away a 2% overriding royalty from the income from State lands. The opinion of attorney General stated in part as follows:

> A diversion of revenues which may be due to the State by virtue of State law and State leases is a flagrant violation of the United States Constitution. It not only goes beyond the scope of the Supremacy Clause of the Constitution, but it also takes the property of the people of the State of Alaska in violation of the due process clause of the Fifth Amendment to the Constitution. A provision of that nature constitutes a serious threat to any state government because it apparently recognizes a right of the federal government to control the finances and treasury of state government. Opinion No. 6, 1969, at p. 8.

Concerning the conflict between the royalty provisions and the Alaska Statehood Act, the opinion of the Attorney General asks the following question: "May the United States unilaterally enact legislation in direct conflict with the Statehood Act?" The Attorney general answered this opinion

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as follows:

> The answer to this is that the United States may not constitutionally enact effective legislation in direct conflict with the compact provisions of the Statehood Act unless there's an amendment to the Constitution of the State of Alaska because a Statehood Act constitutes a compact in a nature of a contract between two sovereign governments. Opinion No. 6, 1969, at p. 10.

The opinion of the Attorney General further states that the only constitutional method by which there can be an act of legislation which is in direct conflict with the Alaska Statehood Act is with the approval of the people of the State of Alaska of such federal legislation. Opinion, p. 11.

The opinion of Attorney General at page 11 further pointed out that proposition 3 submitted to the voters at the time of their approval of the Alaska Statehood Act, which proposition is quoted at p. 14, supra, had the effect of amending the state constitution to comply with all of the restrictions and conditions concerning the grant of land made to the State by the federal government in accordance with the Alaska Statehood Act. This is so because Section 8(b) of the Alaska Statehood Act provided in part as follows:

> In the event each of the foregoing propositions is adopted at said election by a majority of the legal votes cast on said submission, the proposed constitution of the proposed State of Alaska, ratified by the people at the election held on April 24, 1956, shall be deemed amended accordingly.

In other words, Article VIII, Section 9, Constitution of the State of Alaska, in addition to committing an offer to the federal government to abide by all restrictions ... may be imposed by Congress in the Alaska Statehood Act concerning the grant of lands, also has been "deemed amended" by Section 8(b) of the Alaska Statehood Act to comply in all

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respects with the restrictions as set forth in Section 6(i).

It is somewhat incredulous that the opinion of the Attorney General would not now be that Article VIII, Section 9, Constitution of the State of Alaska, must be properly amended in accordance with the initiative, referendum, or amendment provisions of the State Constitution prior to the effective and valid disposition of state lands and their mineral rights.

C. THE PROPOSED EXCHANGE DOES NOT GIVE THE STATE OF ALASKA FAIR AND EQUAL VALUE FOR ITS LAND AND RESOURCES

As described in detail in the affidavit of Harold Galliett, submitted herewith, the State of Alaska in accordance with the proposed exchange terms would be conveying away over 5 billion dollars representing the minimum present values of State coal, oil, gas, and surface rights. In exchange, the State would be receiving approximately 165 million dollars representing the present value of the surface estate in land.

The content of Galliett's statements and evaluations contained within the affidavit are not outlandish and speculative; to the contrary, experts employed by the State of Alaska within the Department of Natural Resources have concurred in Mr. Galliett's opinion that the proposed exchange does not result in fair or equal value to the State.

For example, the Hammond Administration on or about November 28, 1975, solicited an "economic resource analysis" from one P. O. Dobey to justify the exchange. This report, however, was received by the staff members of the Department of Natural Resources, Division of Geological and Geophysical Surveys, with pointed criticism.

On January 2, 1976, Cleland E. Conwell, Mining Engineer, Department of Natural Resources, wrote a memorandum to Guy

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Martin, Commissioner of Natural Resources, and stated in part as follows concerning the "economic resource analysis" prepared for the Administration by Mr. Dobey:

> At the request of Gil Eakins, Acting State Geologist, I have reviewed the subject report. I find that the report is misleading, contradicts Alaska Geological Survey open file report No. 51, is inaccurate and biased. I respectfully request that the report not be published as an open file report under your name and that of Ross G. Schaff. It may be of some use to Mike Smith within the department, but I feel that the quality is too low to justify publications as a Division Report.

On or about January 2, 1976, Mr. Conwell also wrote a memorandum to Michael C. T. Smith, Director of the Division of Lands, and stated in this memorandum in part as follows:

> On or about the 8th of October, Ross Schaff, Don McGee, and I met with you in your office to advise you of the value of coal land the State was proposing to give away. It is my recollection that we advised you at that time of the value of coal on these lands and of work in progress by the private sector in exploring the Beluga coal field. As I recall, all three of us, especially Ross and I, expressed personal disapproval of a trade. It was and is our opinion that some of the most valuable land in the State is being traded for land that has little or no economic potential. (Emphasis supplied)

Further, in this memorandum to Michael C. T. Smith, Conwell states that the newspaper articles published by Mr. Galliett concerning the disadvantages of the proposed trade were accurate, and even conservative. The memo specifically refers to Mr. Galliett's estimated coal recoveries of 50%, and states: "I only comment on the first article is that recovery of 50% of the coal is low by today's standards."

Concerning the claim by the Hammond Administration that the exchange will give the State control over the salmon runs,

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the Conwell report states:

> In reference to the second article, it is my understanding that Fish and Game have control of fishing and the streams. I believe that this is covered in Section 16 of the State Statutes, so there is no need to control the Lake Clark or Iliamna areas for the fishing potential.

The Conwell report further summarizes the valuable land to be given to the natives and themineral and agricultural potential of each tract. Concerning the lands to be given to the State by the federal government in exchange, the report states:

> In general, these lands are underlain by Jurassic intrusives that have a low mineral potential for hard minerals, lack equivalent agricultural potential, lack the recreational value, because of inaccessibility, and, if not selected by the natives might still be open to selection by the State.

The Conwell memorandum concludes:

> There are many misleading statements in the report. I find errors in the calculations regarding the discounted cash flow. The Stanford Research Institute has a report issued in 1975 that gives figures that conflict with those of Robert Bottge.

On January 2, 1976, Mr. Gilbert R. Eakins, Acting State Geologist, issued a memorandum on behalf of the Department of Natural Resources, Division of Geological and Geophysical Surveys, to Mr. Michael C. T. Smith, Director of the Division of Lands. In this report, Mr. Eakins refers to three of Mr. Galliett's newspaper articles assessing the valuation of the tracts of land involved in the proposed land exchange. Mr. Eakins' opinion concerning Mr. Galliett's and Conwell's assessments is set forth in full as follows:

> I concur with Mr. Conwell's assessment that it is not in the best interests of the State to make the proposed land trade. A purely economic view indicates

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> a high potential dollar value of the tracts to be traded to the Cook Inlet Native Association. Large reserves of quality coal are known, agricultural lands are present, and a reasonably good potential exists for petroleum and uranium. In addition, the lands to be given to CINA have wisely been selected near populated areas and where industrial and population growth may be expected. We believe the potential revenues are very significant and that an attempt to put a discounted cash value on the resources today is not a fair evaluation.
>
> In contrast, the lands to be received by the State in the trade do not appear to have an important mineral potential, are relatively inaccessible, and are not suitable for development.

Copies of the three memoranda referred to above are attached hereto as exhibits.

Section 38.95.060 represents existing law concerning authority for the exchange. As set forth in detail in the complaint, Section (c) of this Statute requires that exchanges shall be on a basis of equal value. While the court cannot be expected to take Mr. Galliett's calculations as an ultimate conclusion of the exact valuation of the lands proposed to be exchanged, the great disparity in the equality of the figures should at least be accepted as placing grave doubt about whether or not the exchange complies with existing Alaska Statutes.

Combined with the memoranda of the Department of Natural Resource's own experts, Mr. Galliett's representations as set forth in the affidavit should satisfy the plaintiffs' burden of proof that the proposed exchange is, more probable than not, invalid.

D. OTHER ISSUES

1. Count Two of plaintiffs' complaint sets forth, in detail, the statutory provisions relating to the sale of public lands.

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Section 38.05.045, Alaska Statutes, provides that state land may be sold as provided in Sections 45-69 of this chapter. Section 38.05.055, Alaska Statutes, provides for public auction to the highest qualified bidder as determined by the director.

Section 38.05.125, Alaska Statutes, states that each contract for the sale, lease, or grant of state land, and each deed to state land, properties or interest in state land, made under Section 315-325 of this chapter or Section 45-120 of this chapter, . . . is subject to the reservation that the State of Alaska "expressly saves, excepts, and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind, or description, ..."

Section 38.05.310, Alaska Statutes states that no land may be sold or leased for less than the approved, appraised market value. The proposed exchange violates the intent and purposes of the foregoing Alaska Statutes which provide for the sale of all lands by public auction to the highest bidder. In any event, land cannot be sold for less than the appraised market value.

The proposed exchange lacks any proper appraised market value by the State concerning the lands to be exchanged, and the Alaska Statutes cited above, in addition, prohibit any conveyance without reserving to the State of Alaska all the mineral rights contained within the lands so conveyed.

2. Article VIII, Section 10, Constitution of the State of Alaska, also prohibits the sale or lease of state lands without prior public notice and other safeguards of the public interest as may be prescribed by law. This requirement is also

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cussed in Count Three of the complaint in detail.

It seems fairly obvious that "prior public notice" must include effective notice. As set forth in the complaint, the actual lands to be made the subject of the trade with the native corporation have not yet been determined. How much of the Beluga coal land and other lands now belonging and patented to the State will be selected from various "pools" and the exact location and value of such lands, still has yet to be determined, and probably will not be determined until long after the governor or the Commissioner of Natural Resources gives his consent to the proposed exchange.

Because the public will have been denied effective prior notice of the exact nature of the land exchange, even if the subsurface minerals could be conveyed the proposed exchange violates Article VIII, Section 10 of the Constitution of the State of Alaska.

3. Article VIII, Section 17, Constitution of the State of Alaska, provides as follows:

> Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

It seems fairly obvious that the proposed land exchange violates the above constitutional provision and that the trade or exchange will result in valuable state resources being conveyed to a private corporation for less than fair value and for the use and benefit of less than all citizens of the State of Alaska.

4. The proposed exchange attempts, through federal legislation, to unilaterally waive or amend the Alaska Statehood Act; disposes of state lands and minerals without ade-

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blished and appropriate sale procedures; and denies the citizens of the State of Alaska the protection of Article VIII, Section 9 of their Constitution and its compact with the federal government pursuant to Section 6(i) of the Statehood Act.

For the above reasons the proposed exchange and its implementing legislation deprive plaintiffs and the citizens of the State of Alaska of their property and resources without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, and Article I, Section 7 of the Constitution of the State of Alaska.

Further, the proposed exchange denies the citizens of Alaska of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States and Article I, Section 1, Alaska Constitution.

There can be no enactment of the Alaska legislature which effectively and with validity conveys away the State's mineral resources without an appropriate amendment of the Constitution of the State of Alaska and is compact with the federal government. This must be done in accordance with the procedures outlined above concerning constitutional amendments.

5. In A. J. Industries, Inc. v. Alaska Public Service Commission, 470 P.2d 537 (Alaska 1970), the standard is set forth governing the issuance of preliminary injunctive relief. In accordance with the rulings of this case, plaintiffs submit that a more than sufficient showing has been made for the granting of a temporary restraining order and preliminary injunction.

Plaintiffs have, in the opinion of the undersigned, demonstrated real and important constitutional issues surrounding the proposed land exchange, which issues will, more probable than

not, be resolved in plaintiffs' favor. Also, in weighing the equities of both parties, the loss to the taxpayers in failing to obtain injunctive relief at this time would be astronomical. The value of the State mineral resources about to be conveyed away to the native corporation can never be replaced and the proposed exchange would result in an economic loss to the citizens of Alaska for generations to come.

On the other hand, as far as the State of Alaska is concerned, if the injunction is granted, little or no harm will be done because even though an extension of time will have to be granted by Congress in order to effect the exchange, if the merits of the exchange are just as valid tomorrow as the State claims today, there should be no problem for Congress and the Alaska legislature to effect the exchange during the coming months.

In accordance with all applicable criteria, plaintiffs have presented more than sufficient justification for immediate injunctive relief. A preliminary injunction should issue restraining Governor Jay Hammond, the Commissioner of Natural Resources and the Director of the Division of Lands, their agents and employees, from conveying or attempting to convey in any manner any state land with mineral resources in violation of State and Federal law.

DATED this 3rd day of March, 1976.

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02-001B

STATE
of ALASKA
DEPARTMENT OF NATURAL RESOURCES

MEMORANDUM

TO: Guy R. Martin
Commissioner

DATE : December 6, 1975

FROM: Michael C. T. Smith, Director
Division of Lands

SUBJECT: Proposed Cook Inlet Land Trade

PROPOSED COOK INLET LAND TRADE

Brief History

Because of existing federal withdrawals, state land selections and non-Native settlement patterns within Cook Inlet Region, Cook Inlet Region, Inc., unlike the other regional corporations created under ANCSA, has not been able to select lands which it considered of like and similar character under the formulae established by the Act. For approximately three years following enactment of ANCSA, Cook Inlet Region, Inc. ("CIRI") carried on a long series of discussions with the Secretary of the Interior in an attempt to insure its ability to select lands considered of like and similar character. While the Secretary made a number of withdrawal adjustments, he was not able to satisfy the Region and CIRI went to court seeking redress. Discussions continued between the two parties while litigation ensued and in approximately September of 1974, Interior solicitor Kent Frizzel made an offer to Cook Inlet which specified certain lands which the Secretary would convey to Cook Inlet in settlement of the suit. The "Frizzel offer" proposed, in part, to convey to CIRI ten surface and 15 subsurface townships within the Kenai National Moose Range, including the Swanson River oil field, as well as additional federal lands in the then Greater Anchorage Area Borough. These latter lands included certain parcels which had been eyed by the Greater Anchorage Area Borough for public open space and recreation purposes, more specifically Point Woronzof, Point Campbell, and at least a sizeable portion of the Campbell Airstrip tract. The State did not participate in these discussions and thus was not aware of all contents of the

"Frizzel offer" and the tremendous impact that it would have had upon State interests, particularly financially. CIRI declined the initial offer although it apparently later changed its mind. However, the offer had been withdrawn by that time.

The U.S. District Court ruled in favor of the Secretary in February of 1975, by which point CIRI had gone to Congress to gain support for its problem. Congressional support for some form of amelioration of Cook Inlet's troubles was found with Senator Jackson and Congressman Meedis. These Members of Congress, both Chairmen and both strongest and most effective advocates for Natives and Indians in their respective House, have each publically pledged to see that Congress protects Cook Inlet Region's ANCSA rights. This guarantee must be taken very seriously. Proposals were introduced which were essentially identical to the "Frizzel offer" and hearings were scheduled on these bills for May. At the same time, CIRI had indicated that they were going to appeal the District Court decision in the 9th Circuit. At this time, the Alaska Delegation and others in Congress suggested to the State that it explore the possibility of entering the discussions between CIRI and the Secretary to see if some mutually agreeable solution to Cook Inlet's land selection problem could be agreed upon which involved State land. This was suggested for the reason that inadequate Federal land was available in the Region, and this was at the heart of the problem.

The State was thus faced with the following factors:

1. Some seven months previous an offer, largely unacceptable to the State, had been offered by the Secretary without significant notice to the State. Such an out-of-court or pre-legislative action offer might be again proposed by the Secretary without

State participation. This is a risk of not taking any State action.

2. Although CIRI had lost in District Court, its appeal to the 9th Circuit included a request that the court nullify the September 1972 agreement between the Secretary and the State of Alaska which gave Alaska selection rights to lands south and southwest of Mount McKinley National Park which CIRI claimed it should have been entitled to select. Should the court find in favor of Cook Inlet, the Secretary would be directed to make available to CIRI for its selection a more acceptable array of lands. The Secretary might then have to reject the State's approximately 484,000 acre selection in this area in favor of making these lands available to CIRI for selection. Additionally, if this should happen and the Secretary can respond to a reversal by the Ninth Circuit by seeking to recover from the State the 484,000 acres sought by CIRI, he might also be forced to recover, on behalf of other Regions, conservation groups and other parties aggrieved by the September 1972 settlement, the other of the remaining forty-three and one-half million acres covered by the September 1972 State-Federal settlement. Although the State would oppose any such legal result it remains a distinct possibility to this day. It is a risk of taking no action.

3. Assurances had been given by members of Congress (Congressman Meeds and Senator Jackson) that Cook Inlet would receive favorable legislation if their problem could not be settled by other means. The bills before the Congress at that time were essentially identical to the largely unacceptable "Frizzel offer." A similar bill is before Congress today as an alternative to the proposal below, and is a risk of taking no

State action.

4. The Congressional Delegation had asked that the State take a more active role in discussions to seek an equitable solution to the problem.

5. By entering the discussions, the State could seek to effect other land trades within the region which would guarantee certain favorable land ownership patterns as well as bring under state control specified areas which the State wished to select itself, but would be unable to select if a CIRI settlement were finalized without State participation.

On the basis of the above the State began discussions with CIRI and the Department of Interior in approximately April of 1975. The discussions continued, becoming particularly intense preceding the Congressional hearings in the middle of May. Because of the complicated nature of the discussions, and with additional time available following the May hearings, the discussions progressed throughout the summer and early autumn. At each hearing, the State responded to Congressional requests, and testified regarding progress on a negotiated settlement. Each time, the State and the other parties were requested and encouraged to continue the discussions, and were advised of Congressional time restraints. Following Congressional hearings in the latter part of September, the land trade proposal was almost complete and the State publicly presented the proposal on October 2, concomitantly holding numerous briefings of smaller, more specialized groups interested in the trade (borough governments, conservation groups, Chamber of Commerce, Legislators, etc.). A thorough press briefing was also held. Following public input, addtional discussions were held with Cook Inlet Region and the Department of Interior to reflect public sentiment of the

proposal. Details of the public input and subsequent changes in the proposal based upon that input are documented in greater detail below.

Implications

If the State endorses the proposal and it is passed by Congress and implemented, the benefits outlined later will accrue to the State and other parties involved. If the State does not support the proposal, or if the proposal is not implemented for other reasons, a significant number of possible permutations exist with respect to the final outcome of Cook Inlet's selection problem. The four most likely are listed here, but others which would have profound effects are possible.

1. Cook Inlet loses its suit--The CIRI appeal is now in the 9th Circuit. Should the suit ultimately be lost, and no other remedy found, the Region would select according to the withdrawals presently in existence which precipitated the litigation. Selections would be in conflict with over 20 townships the State had previously selected and between 10 to 20 townships that the State would now like to select (including Kamishak Bay which is the prime lower west side harbor site in Cook Inlet). The pattern of Cook Inlet Region selections would be dispersed and would create difficult management patterns throughout the Region. Substantial land would be selected which is deemed more appropriate for public ownership and use (such as the harbor site and lands in the Lake Clark area).

   It should be pointed out that this result is somewhat unlikely, even if the suit is lost, because its loss would very likely precipatate unilateral Congressional action for the reason that these selections are generally regarded as inequitable to the Region.

2. CIRI wins its suit--ramifications of this alternative would depend largely upon the court's directives. Cook Inlet would undoubtedly receive lands of more like and similar character which would be more physically suitable for settlement and development, but such lands are likely to conflict with land uses thought more appropriate by the State. Swanson River revenues might also be included. Sizeable portions of the Kenai National Moose Range, which is also a State wildlife refuge, might be selectable by the Region. The State could lose selections totaling approximately 600,000 acres in the Upper Susitna Valley near Chalatna Lake if the court concurred with one of CIRI's requests for redress (further details are indicated on the attached maps). Much more importantly, the entire Alaska v. Morton out-of-court settlement of September 1, 1972 will be threatened in that the remaining forty-three and one-half million acres of state selected lands pursuant to that agreement would be in jeopardy from other Native regions or other groups who might like to see substantial portions of that state acreage in other ownership.

3. Congressional action--having made commitments to help Cook Inlet, and having waited a considerable amount of time for discussions among the three parties to prove fruitful, Congress might well legislate an alternative amendment over any objections made by the State or others. It is hard to be specific about the form such an amendment might take, however, there is good reason to believe that some alternate form of the "Frizzel offer" might emerge. As discussed earlier, this proposal has extremely unfavorable consequences for the State.

4. Administrative settlement--although the least likely of the four, some administrative settlement between Cook Inlet and the Secretary might be arrived at which would not be in the interests of the state. Past experience indicates that any settlement proposed by Interior must be, because of land availability in the Region, either unacceptable to the Region or if acceptable, then probably extremely unfavorable for the State.

Additionally, certain advantages which the State has been able to gain through the discussions would not accrue. Specifically, the ability of the State to guarantee its selection and ownership of lands in the Talkeetna Mountains, Kamishak Bay and, more importantly, lands in the Bristol Bay areas. If Cook Inlet is forced to select lands in the Lake Clark area, the State's bargaining chip of guaranteeing that those lands remain in public ownership would be lost, and our leverage to bargain decisively for state selection rights within the Lake Iliamna-Bristol Bay proposed National Resource Refuge would be lost. One of the most compelling advantages of this proposal is the leverage which ownership of lands in the Bristol Bay area may give the State in what may be the most important single post-ANCSA federal political decision in the State's history: The 17(d)(2) question.

Basic Objectives Of Proposal

Each of the three parties had its own objectives in the discussions and would emerge with certain specific benefits.

State--The objectives of the State were basically two.

1. State land ownership--by trading 21.4 townships the State would gain selection rights and control substantially larger areas of the Talkeetna Mountains, Chakachamna Lake, Kamishak Bay, and the Lake Iliamna

and Bristol Bay areas. In these cases the State has operated from the standpoint that the State is much more capable, because of governmental infrastructure and location, to more effectively meet the needs of its people by owning these lands than can the federal government which lacks the "local" governmental structure needed to respond effectively to Alaska's needs. The juxtaposition of the Talkeetna Mountains to the rapidly expanding population in southcentral Alaska will become even more critical upon the possible establishment of a new capital city, very possibly immediately adjacent to Talkeetna Mountain lands which CIRI presently plans to select. In the Lake Iliamna and Bristol Bay National Resource Range proposal approximately 15 percent of the lands will be under the control of private Native corporations. The State can more effectively administer to the requirements of its citizens in those areas if it owns the other lands within that region. Additionally, the tremendous dependence upon the salmon fishery resources of that region, and the current responsibility of the State to manage those resources, argue cogently that the State should also control the uplands in that area.

2. Land ownership pattern--as it is the State which must provide those services and governmental functions based upon the land ownership pattern which emerges from Cook Inlet's ultimate selections, it is very much in the State's interest to assure a favorable selection pattern. Under the proposal, ownership patterns would:

A. provide CIRI with lands physically well suited to settlement and development.

B. guarantee that such developable lands would be located in close proximity to existing government services and, therefore, significantly reduce future expense in providing communication, education, transportation, and public safety services to these areas.

C. hasten the development of these suitable lands in a much shorter time frame than could be expected for the remote lands which CIRI would otherwise be forced to select.

D. a sophisticated but critical point is the fact that certain State selection rights, such as the 11(a)(1) (ANCSA) issue, will have to be resolved very shortly. The State believes it can select in these areas, and if it prevails, such 11(a)(1) selections, in combination with the selections under this proposal, would result in a highly desirable State resource ownership patter, particularly in the Iliamna area.

It might well be emphasized that, although the State believes that its own ownership in this area is critical, an equally high value must be placed on simple consolidation of ownership under as few owner-managers as possible (regardless of who is the owner). This is so far the reason that it is a "mix" of ownership and management patterns that creates the greatest difficulties over the

long view for a large resource area.

CIRI--The basic objectives of CIRI are to obtain lands of more like and similar character to those historically occupied by their ancestors within the Cook Inlet Basin. The proposal would largely accomplish this, although the Region will have reduced its entitlement significantly in obtaining these more suitable lands and would be taking over 50 percent of its entitlement outside the Region. The benefits to the 6,000+ members of Cook Inlet Region, Inc. would be increased, and as members of the Southcentral Alaska community these benefits would have substantial favorable economic and social impacts upon the State. Most important, the Region would finally have accomplished certainty in its selections, which is extremely important for the stability of the Corporation.

Federal Government--The objectives of the Federal Government were to settle the responsibilities of the Secretary with respect to the requirements of ANCSA and to accomplish this in a manner which would have minimal impacts upon other values for which the Secretary is charged with protection. More specifically, the proposal would permit a more acceptable incursion into the Kenai National Moose Range, thus protecting fish, wildlife and their habitat as well as the substantial recreational values of the Refuge. The proposal would also leave certain key areas in the Lake Clark area under Federal control and management. This makes sense in terms of other Federal ownership in the area. Most important, it would settle with finality one of the most difficult and complex legal and resource issues under ANCSA, one which has

required substantial governmental resources.

Negotiation Process

The first approach to the State requesting State participation in land trade discussions occurred in mid-February when Andy Johnson, President of CIRI, met with the Director at the Division of Lands. Following the loss of its District Court suit, and the resultant hardening of the Department of Interior's bargaining position, Cook Inlet then took the legislative solution route and only occasional discussions among and between the three parties occurred during the remainder of February, March, and early April. However, as it became obvious that a legislative solution not in the State's interest was a real probability, and following a request for State participation during Congressional hearings, a decision was made to pursue discussions concerning the proposed trade. At this time, the Commissioner and Governor were briefed, guidelines and general policies and objectives were set, and authorization was procured.

Somewhat regular meetings began in approximately mid-April and intensified considerably toward the latter part of April and the first week of May. By this time considerable public interest had been generated by media reports of the proposed amendment and the Anchorage Area Borough, in addition to the State, was working with representatives of CIRI on a very regular basis. Discussions on the part of the State were led by the Director of Lands. Staff assistance was requested when necessary and various staff attended certain of the meetings. Other divisions within the Department of Natural Resources, particularly the Divisions of Oil and Gas and Parks were consulted to a significant extent and other departments were asked to input when it was felt certain terms in the discussions affected their areas of interest. The Division of Aviation and the Department of Fish and Game were particularly involved. The ongoing progress of the discussions was regularly transmitted to the Commissioner of Natural Resources.

By the end of the first week in May substantial progress had been made and it appeared that CIRI would be willing to withdraw its proposed amendment on the basis of the tentatively proposed agreement. However, it was explicitly stated to the Region and Interior Department that final State concurrence could not be had until a public review and comment process had been effected. CIRI understood this and agreed to request that Congress not act immediately on their proposed amendment, but rather allow enough additional time for the proposed land trade to be agreed to by all parties. On May 7 a briefing was conducted by the Director of Lands for the Commissioner, the Governor, and the several appropriate department heads in Juneau. On the basis of that presentation and ensuing discussions, the decision was made for the State to also request that Congress refrain from acting on Cook Inlet's proposed amendment immediately and to allow additional time within which the parties could move to a final agreement following public input in Alaska.

On May 16 the Commissioner and the Director presented such testimony to the appropriate House and Senate Interior Subcommittees respectively. Prior to this testimony the three members of the Alaska Congressional Delegation and appropriate staff were briefed in considerable detail concerning the tentative proposal as it then existed.

Shortly following the Congressional testimony, the Cook Inlet Region, Inc. Board of Directors, for internal reasons not fully understood, voted to reject the then existing proposal and this led to an approximately three week period during which little discussion occurred between the State and CIRI. The lack of agreement was based primarily upon the Region's insistence that it ultimately obtain full surface entitlement under ANCSA, even if outside the Region. The State felt that full entitlement in addition to the lands which the State had proposed to trade to CIRI

was unacceptable. The latter part of June, following some Region concession on the full entitlement issue, discussions began again and continued intermittantly throughout July, August, and September as Congressional deadlines for action continued to recede. The extra time available was invaluable in allowing the State to more closely scrutinize various aspects of the proposal and to work with the Interior Department to insure the State could agree with the concessions which Interior was proposing. During this period additional meetings with the Congressional Delegation, other division and departmental staff and representatives from CIRI occurred. Documentation of these meetings is contained in greater detail in the file.

On September 24 additional testimony was presented before Senator Haskell's Interior Subcommittee concerning the proposal. Presentations and discussions were held with various interested parties in Washington, including the Congressional Delegation, and a more detailed presentation concerning the state-federal aspects of the proposal was made by the Commissioner and Director to the Department of Interior's Alaska Task Force.

On September 26 the Director announced that a public briefing of the proposal would be held in Anchorage on October 2 with public testimony to be received orally on October 3 with an additional period for written input. On September 30 a very detailed briefing of the proposal was made to both Division of Lands staff and a second briefing to representatives from other divisions within the Department of Natural Resources and representatives of other State departments. On October 1 another very detailed briefing was given to the Press, radio, and television media. Before the public presentation additional detailed presentations were made to various groups which had expressed considerable interest in the ongoing discussions. These included representatives of three affected municipal governments (Anchorage, Matanuska-Susitna Borough, Kenai Borough),

Legislators, and environmental groups. Public presentation on October 2 and the meeting the following night for public input were very well attended and, in response to requests for a similar hearing in Fairbanks, another presentation was made in Fairbanks on October 7. As a result of the media campaign and the public meetings, significant public input was received and a number of meetings were held between the Director and interested parties as well as several additional detailed briefings to groups specifically requesting them. Those latter included the Bureau of Land Management, Anchorage Chamber of Commerce, Kenai Borough Assembly, Capital Site Selection Committee, and the Federal-State Land Use Planning Commission. A summary of the input from the public and the various interested groups, as well as the State's response to this input, is detailed later.

Specific Nature of Proposal

The proposal is basically composed of three different parts; a State-CIRI agreement, a CIRI-Federal agreement, and a State-Federal agreement. All aspects of each sub-agreement must be executed before the entire proposal would be binding. In essence, the State of Alaska would make available to CIRI State lands which the Region feels are of like and similar character to those lands which it has historically used. In return, the State would fall heir to approximately one-half of Cook Inlet's 12(c) entitlement in the Talkeetna Mountains, Chakachamna Lake, Lake Clark, and the Kamishak Bay areas. The remaining approximately one-half of Cook Inlet Region's 12(c) entitlement would remain in federal hands and the Federal Government would in turn convey to the State an equivalent amount of acreage in the Bristol Bay area. Additionally, the Federal Government would convey to Cook Inlet certain other lands within the region, including lands from the Kenai National Moose Range, as well as a total of approximately 26 townships to be selected from federal lands outside of Cook Inlet Region.

Because certain Cook Inlet Region village selections have or are likely to impact state, federal or CIRI interests related to Cook Inlet's selections, smaller sub-agreement proposals have been discussed with approximately seven villages or groups. These proposals function very rationally within the framework of the Cook Inlet Region selection proposal. Without the inclusion of these sub-agreements the interests of one or more of the three major parties would be likely frustrated by the existing village or group selection patterns.

Attached as Appendix A to this document is a more detailed breakdown of the specific aspects of the "original" proposal as presented publicly on October 2. Each aspect of the proposal was specifically keyed by number to an attached map which shows the location of that particular aspect of the proposal. Each aspect was also briefly explained as it pertained to the overall proposal. With only a few exceptions those aspects were the same ones which we had been discussing since last May and, therefore, there was relatively little new with respect to the proposal at that time. Following public input, as described below, and as a result of the U.S. District Court's finding Salamatof and Alexander Creek as certified villages, the proposal was modified and is shown in its final form under the "Current Status" hearing below.

Characterization of Public and Agency Input

The more or less finalized "original" proposal was presented to state agencies and the public in detail during the first week of October. As a result of this process input was received from many sources, primarily the public. This input was used for a series of additional sessions with CIRI in which significant modifications were made. This resulted in the "modified" proposal described later. The characterization below represents agency and public input with respect to the "original" proposal before modification.

As with the public input, other state agencies generally supported the concept of the State's attempts at insuring rational land ownership patterns. One aspect of the proposal, that of the approximately 12 township selection in the Beluga area, generated significant comment from the Division of Geological and Geophysical Survey as well as the Minerals Section within the Division of Lands. This input, both oral and written, emphasized both the amount of known and inferred coal reserves as well as the potential for coal exploitation under various conditions. While general parameters of the coal resource in the Beluga area had been known during the discussions with CIRI, more detailed and specific input from these agencies was requested and received. The specifics of this input may be found in the case file. Input from other state agencies which requested specific alterations or suggestions, e.g. the Department of Highways, was inputted during the modification discussions and this input may again be found in the file. Other agencies generally expressed approval either orally or written of the basic aspects of the proposal.

Public input following presentation of the "original" proposal came in both oral and written form. The vast majority of respondents indicated favorable support for the concept of the State entering the discussions and the general expression was that, with the exception of certain aspects of the proposal, the overall benefit which accrues to the State outweighed any deficits involved. Against this background of significant public support for the concept of the proposal, eight specific areas were singled out which received comment.

1. Mental Health Lands - Testimony brought out the fact, inadvertently overlooked by all parties, that approximately six and one-half townships from within the original pool of land CIRI could select from in the Beluga area had been selected by the State as mental health lands. Input and interest concerning these lands was received not only at the public hearings but

also through several telephone calls from interested members of the public. It might be noted that this finding alone made the extensive public process invaluable, and demonstrates the need for public exposure on all similar complex issues.

2. Coal Deposits - By far the most controversial aspect brought out by the public hearings and subsequent input concerned the inclusion of the "Beluga Coal Fields" in the proposal. Concern was genuinely expressed, although facts, figures and questions were often uninformed in nature. However, the sum total of input at the public hearings, from interested calls and appearances at the Division of Lands by interested parties, and inquiries from several groups indicated a definite feeling that significant acreage of lands with coal potential were felt to be "too much."

3. Insufficient Time - A number of comments were received which indicated that because of the complexity of the proposal insufficient time was available within which to satisfactorily study and comment. Interested parties were understanding of the fact that the "deadlines" were largely a result of a Congressional time schedule beyond our direct control, but the feeling of inappropriate time constraints was still evident. Later announcements by the State that over five weeks were available for public input ameliorated this feeling considerably.

4. State Agency Input - A few respondents indicated that they felt that insufficient input had been received from some State agencies during the negotiation process. While such comments generally indicated an understanding that specific recommendations from all agencies could not necessarily be accommodated in the proposal, the feelings were that all resource aspects should be addressed equally before a final decision is made on the proposal.

5. Legal Aspects - Two respondents raised the question of the authority of the State to enter into such a proposed trade. Their comments were almost exclusively directed at the authority of the State to alienate sub-surface resources in apparent contradiction to the Alaska Statehood Act and to the process by which "equal value" was determined.

6. Parks and Recreation Protection - A very significant number of respondents indicated approval of those few aspects of the proposal which offered some measure of protection for future open space and/or recreational options.

7. Accelerated Development - Several respondents indicated a favorable disposition to those aspects of the proposal which, by providing the Native corporations with lands appropriately located and suitable for development, would hasten the settlement and development of these lands in a manner which would favorably impact the State's economy. It was also felt that the location of private development in the Cook Inlet basin was appropriate and timely.

8. Extra-Regional Selection - Comments were received from three regional corporations which protested the out-of-region entitlement for Cook Inlet. These comments centered largely on a fear that CIRI's interests would not be compatible with those of Native residents of other regions, particularly with respect to CIRI's responsiveness to their life styles and subsistence needs. A fourth region, however, testified in favor of the proposal.

At a meeting of the Alaska Legislative Council in Anchorage on November 4, a presentation to the Council concerning the proposed Cook Inlet land trade was made by Mr. Harold H. Galliett, Jr. Mr. Galliett was particularly concerned with the Beluga lands aspect of the proposal. Not being familiar with the

"modified" proposal which resulted from public input of the preceding month, Mr. Gallett's presentation unfortunately conveyed some erroneous information. As a result of the presentation and an ensuing discussion, the Council became very interested in the proposal, and a subcommittee, chaired by Senator Kay Poland of Kodiak, was appointed to look into the matter and to report back to the Council. This subcommittee met in Juneau with the Governor, Commissioner of Natural Resources, and Director of Lands on November 7. In addition to Senator Poland, other Legislators present included Senator Rader and Representatives Smith, Miller, and Specking. The session included a detailed presentation of all aspects of the proposal followed by extensive questioning. The session lasted approximately three and one-half hours. On Monday, November 10, a conference telephone call was held among members of the Legislative Council concerning the proposal and the response of the Council was made in a letter from Council Chairman Genie Chance to Commissioner Martin on November 12. The Council felt that because of the early time deadlines and complexity of the proposal that the Council was in no position to either condone or oppose the trade proposal. Senator Chance did, however, indicate that members of the Council were free to express individual opinions on this or future land trade proposals.

The press was somewhat indecisive in commenting on the entire proposal. The "Daily News" did not discuss specifics, but rather applauded this attempt by government to actively participate in a proposal which would have such a great effect on the State. The "Daily Times" pointed out some of the benefits to be accrued, particularly the aspects of putting lands more suitable for development into native hands at an early time, but also questioned whether all aspects of the trade had been publicized so that a full and complete judgement might be made by the public. More recently, following the interest expressed by the Legislative Council in early November, the "Times" questioned

why the State was even involved in the matter in light of the paper's feeling that the problem was really one between the Federal Government and the Natives.

Generally, press coverage of the entire process has been extensive, and it is safe to conclude that public exposure, for those who chose to follow the issue, was extremely high. The Press briefing given by the State regarding the initial proposal was probably the most extensive ever given on any issue regarding State lands.

Current Status

As a result of public and agency input certain substantial changes were made to the tentative proposal which was made public during the first week of October. In addition, the decision by Judge Gazell in the United States District Court, which found that the villages of Salamatof and Alexander Creek were certified and therefore entitled to select large acreage within areas very important to the agreement, caused other necessary changes to the original proposal since certain aspects of the proposal sought an agreement before a decision was rendered. The significant changes to the "original" proposal, which have resulted in a "modified" proposal, are outlined below.

1. Beluga Area--the original proposal would have permitted CIRI to select 12 townships from a pool of approximately 22.5 townships in the Beluga Area. The modified proposal would permit CIRI to select 13.5 townships out of a pool of approximately 16 townships. The reduced pool reflects the 6½ townships of Mental Health lands which were withdrawn from the pool. This reduction would leave approximately 75 per cent of the measured or indicated coal reserves in State ownership. Despite this very significant diminu-

tion of value to Cook Inlet Region, the modified proposal calls for only 1.5 additional townships which may be selected from the diminished pool. In addition, a much larger area on the coast southwest of the Tyonek Reservation would remain in State ownership for future resource development in that area. Rather than CIRI owning a land corridor from its selected lands to the coast, the State would guarantee a public right-of-way for various resource and other transportation needs.

2. Bristol Bay Area--the original total of approximately 30 townships in the area of the Interior Department's Lake Clark d(2) proposal which were to be traded by the State in return for an equal number of townships in the Bristol Bay Area has been reduced to approximately 25. This change resulted from a determination by the State that it would be of greater benefit for the State to receive title to approximately 5 townships in the Lake Chakachamna Lake area. In addition to the inherent value of these lands, the Interior Department is very interested in these townships for inclusion in its d(2) proposal. For this reason, the State would retain a very strong bargaining position by obtaining title at this time to those lands.

3. Anchorage Bowl Federal Surplus Lands--while the original proposal specifically prevented CIRI from obtaining title to Federal Surplus Lands in the Campbell Tract, Point Campbell and Point Woronzof withdrawals, the modified proposal goes further in also protecting the Goose Lake withdrawal and in guaranteeing transfer of the Campbell

Tract to the State immediately and the Point Campbell and Point Woronzof of those surplus properties to the State or the Anchorage Municipality surplus properties as soon thereafter as possible.

4. Other Federal Surplus Lands Or Withdrawals--the original proposal permitted CIRI to select up to 3 townships of Federal lands in the Cook Inlet region from a pool of Federal surplus property, revoked Federal withdrawals and unperfected public land entries such as homesteads, etc., on an acreage basis. The modified proposal recognizes that such Federal lands may have significant economic values and there is therefore a provision to reduce CIRI's selection entitlement by 1 acre for every $500 of land value selected by CIRI from such Federal lands. In addition, the State is given certain veto and appeal prerogatives to insure that public interests are protected prior to selection by CIRI.

5. Extra-Regional Selections--In response to input by other Native regional corporations which expressed apprehension at CIRI's ability to select lands in close approximation to their land selections, the modified proposal permits affected village and regional corporations outside Cook Inlet to exercise a veto over CIRI's land selections in their 11(a) withdrawals. This will assure the other Native corporations of protection for subsistence, economic or other values. To insure that CIRI would have sufficient lands available to select from, the modified proposal permits CIRI to select from d(1) lands extra-regionally by following a selection process which guarantees both the Federal and State governments a role in determining the location of selections and in protecting each government's own specific interests.

6. Kenai National Moose Range--the District Court's finding that Salamatof is an eligible village immediately impacted the Moose Range with an additional 56,500 acres of selections. Since it appears the Federal government may appeal the decision, the impact and final date of land selections on the refuge are unknown at this time. The modified proposal therefore assumes a maximum selection by all Native corporations of approximately 108,000 acres. If the Federal government appeals and is successful, then the lands otherwise selected by Salamatof would probably go the CIRI as shown in the original proposal. However, if Salamatof does remain an eligible village, CIRI would obtain lands in the refuge only to the extent that some of the villages were willing to trade out of the Moose Range and make lands available for CIRI. In essence, therefore, total impact upon the refuge would remain roughly the same as in the original proposal; the only difference would be which corporation would own the lands.

7. Lake Clark Village Selection Tradeouts--as a result of the District Court decision which found Salamatof and Alexander Creek as eligible villages, the acreage of village selections in the Lake Clark area approximately doubled. Although the State would still trade out those village selections on a 1 for 4 basis, total State acreage involved would remain about the same. The only differences from the original proposal would be that 4 rather than 2 villages would be involved, and the Federal government would be required to provide any other additional acreage from within other village deficiency withdrawals.

Eight specific aspects of the original proposal were commented upon during the public input process. These aspects are outlined above on pages 15-17. Aspects number 1 (Mental Health lands) and 2 (coal deposits) were very substantively addressed and the changes described under number 1 of current status above. Aspect number 3 (insufficient time) has been taken care of by the continued Congressional postponement of action which has provided over 60 days for public reaction and input. Aspect number 4 (State agency input), if a valid basis for comment ever existed, was also addressed during this 60 day period. Contacts with most state agencies, particularity the Division of Geological and Geophysical Survey, resulted in additional comment and input from these agencies. The Division of Geological and Geophysical Survey in particular submitted additional memoranda and reports concerning resource values in the Beluga area. Items number 6 (Parks and Recreation Protection) and 7 (accelerated development) were merely supportive of certain aspects of the original proposal. These aspects were retained in the modified version. Aspect number 8 (extra-regional selection) was specifically addressed in number 5 under current status above. Only aspect number 5 (legal aspects) of the public input summary has not yet been specifically addressed in this memorandum. These legal points of the proposal are discussed in greater detail in the following section.

Major Considerations Before Decision

Two important considerations in all land exchanges were emphasized by a few members of the public and also by the Special Legislative Council Subcommittee:

1. Is there existing legal authority to conclude an exchange?
2. Would the State be receiving at least equal value for the value it gives?

These aspects had, of course, been investigated by the State at the onset as an integral part of any such decision-making process.

1. Authority - It is the opinion of the Attorney General and, we believe, of most other attorneys who have addressed the matter in detail that the Executive presently has State statutory authority to undertake this proposed land exchange. Authority has apparently existed since the enactment of the Alaska Land Act shortly after Statehood for the State to conclude an agreement such as this land trade proposal. Under AS 38.05.020(b)(2), the Commissioner, and, under AS 38.05.035(a)(14), the Director, have several times since Statehood entered into land trades or other agreements affecting lands that were not treated as sales or leases under the Land Act. Additional specific authority for land exchanges such as the present proposal was provided by the 1972 Legislature in the form of AS 38.95.060 as a counterpart to Section 22(f) of ANCSA. Among other things, this law permits the State to exchange land or interest in land with a Native corporation for the purpose of affecting land consolidations or to facilitate the management or development of the land.

The authority cited above does not prohibit the alienation of minerals as proposed in the trade. Although there is no State statutory obstacle, the Statehood Act prohibition against such alienation, found in Section 6(i), is regarded by some as a Federal constraint. Many persons take the position that Section 6(i) has been amended by implication in Section 22(f) of ANCSA so that it does not come into play in such exchange transactions. To erase any questions, the Federal Legislation which will implement the land

trade proposal will specifically address this matter to remove any doubt as to Congressional intention regarding state authority to enter into such a proposal.

2. Equal Value Consideration--In determining whether equal value will be received for value given in an exchange such as this proposal, there are basically two different types of "values" which require consideration. One is a value which can be determined with reasonable accuracy to have an economic value, often expressed in dollars. Secondly, there is value which either may be capable of expression in economic terms but for which a specific dollar value cannot be estimated with any particular degree of certainty at this time, or for which an economic value may never be specifically determined. However, values in this second category are very real and a reasonable person would recognize their existence and importance in computing the overall value received or given in a trade. With respect to this proposal paragraphs A and B below outline, respectively, the two types of values mentioned above.

A. Economic Values--The information presented below represents a summary of economic values identified with respect to State interests in the proposal. The information is based upon reports from various State sources and is expressed in terms of current 1975 dollars, i.e. economic values of resource potentials such as the Beluga coals have been discounted back to present day value. Only those resources specifically known to exist were valued. For example, although there are unquestionably very real and significant subsurface economic mineral values on lands which the State

would receive under the proposal, since they are as of this time unidentified no attempt was made to infer a particular economic value. In the Beluga area where certain measured or indicated reserves exist, however, estimated valuations were made.

Under the proposal the State would exchange approximately 21.2 townships of its land in return for 51 townships of Federal land and the right to select, at the State's discretion, an additional 20 townships. Also, the State would receive title immediately to the Campbell Tract in heart of the Anchorage Bowl as well as a commitment to an expedited transfer of the Federal surplus lands at Point Campbell and Point Woronzoff. In estimating the economic value of the lands to be given and received by the State, estimates were made on the value of the land itself, any timber thereon, and any known mineral resources thereunder. The table below summarizes these values. Documentation may be found in the files.

TABLE I.

ESTIMATED ECONOMIC VALUES, IN PRESENT DOLLARS, OF LANDS GIVEN AND RECEIVED BY THE STATE

LANDS GIVEN BY STATE

LOCATION	ACREAGE	VALUES ($MILLIONS) LAND	MINERALS	TIMBER	TOTAL
Scattered Tracts	69,721	15.7	---	1.8	17.5
Kenai Penn.	107,650	16.1	---	1.3	17.4
Beluga	314,640	22.0	15.9[a]	1.2	39.1
TOTAL	492,011	53.8	15.9	4.3	74.0

LANDS RECEIVED BY STATE

LOCATION	ACREAGE	VALUES ($MILLIONS) LAND	MINERALS	TIMBER	TOTAL
Kamishak Bay	276,480	11.1	---	.2	11.3
Koksetna R.	161,230	6.4	---	.2	6.6
Talkeetna Mts.	161,280	6.4	---	.1	6.5
Bristol Bay	576,000	23.0	---	---	23.0
Campbell Tract	3,930	5.9[b]	c	c	5.9
Pt. Campbell	1,179	6.6[d]	---	---	6.6
Pt. Woronzoff	[illegible]3	4.2[d]	---	---	4.2
Capt. Cook Rec. Area	4,800	.8	---	.1	.9
TOTAL	1,228,742	64.4	---	.6	65.0

NOTE:

a. The 15.9 value for the Beluga Coal resources is based on the middle of three scenarios for production in that area (pessimistic, medium, optimistic). The value has been discounted at eight percent from future revenues to present dollar values. The most optimistic scenario, which makes several very optimistic assumptions, would yield a discounted value of $38.2 million (figures attached to memo).

b. A very conservative figure of three thousand dollars per acre has been assumed for the Campbell Tract. This figure has then been discounted fifty percent under the assumption that if the State did not gain immediate title to the area under this proposal it would still stand a respectable chance of obtaining the land at some time in the future.

c. Although other values including timber and specifically gravel are found on the Campbell Tract, sufficient data were not immediately available to make a good estimate of value. However, the value of gravel alone, located as it is within the center of the Anchorage Bowl, would be very substantial, certainly totaling in the millions of dollars.

d. As with the Campbell Tract the values of the Point Campbell and Point Woronzoff surplus lands has been discounted to recognize that the State might obtain these lands at some unknown future date in other ways if the proposal is not executed. However, because these lands are outside of the two-mile radius of the old city boundaries, and because they are not as important as the Campbell Tract for other public purposes, there is a measureably greater probability that these surplus

Table I. NOTE d. continued.

lands would go to CIRI under some other form of settlement of their claims. Therefore, the conservative values of $8,000 and $10,000 per acre, respectively, are further discounted only thirty percent.

To the values to be received by the State as estimated above must be added values which, if the proposal is not consummated, might be lost to the State. The two most prominent values in this category are the ninety percent royalty revenues which the State receives from oil production in the Swanson River area of the Kenai National Moose Range, and 26 townships of state selected land which CIRI would select if they prevailed in their court suit and the Secretary made such lands available for native selection by refusing to convey them to the State. Any estimation of the value of these two possibilities to the State must assume certain levels of probability that the situation would occur without execution of the proposal.

Swanson River Revenues--There are any number of factors which may enter into assuming a probability that the Secretary or the Congress might convey to CIRI substantial subsurface title in the Moose Range. While only 15 months ago such a possibility would have seemed small to the State, ownership of 15 townships of Moose Range subsurface estate was offered to CIRI by the Secretary in September of 1974. Had CIRI accepted the offer at

that time the possibility of that event would have been one-hundred percent. In view of both that offer and Congress' assurance to CIRI of some settlement of their land claims problem, and assumption of a .5 probability does not appear unreasonable. Using State revenue projections for oil and gas royalty receipts from the Moose Range for only the next 14.5 years, and discounting those revenue projections at eight percent, a figure $41 million is obtained. Use of a probability of .5 yields an estimated value of $20.5 million.

Chalatna Lake 26 Townships--In assuming a probability that the State might lose title to lands currently selected south of Mount McKinley National Park in the Lake Chalatna area two probabilities must be estimated. The first is the possibility that CIRI would prevail in its court suit. Assuming that CIRI did prevail, a probability must then be estimated as to whether the Secretary would attempt to break the 1972 out-of-court settlement of Alaska v. Morton and whether he would be successful in that attempt over almost certain State court action. Numerous agruments may be proposed regarding these two probabilities but for this analysis probabilities of 50 and 40 percent respectively are used. Applying these probabilities to an estimated current land value for the 26 townships of $24.0 million and an estimated value for timber of $3.3 million, a value of $5.5 million is found.

A third value which must be estimated is that of the

additional 20 townships which the State may select at its discretion. A though statehood selection entitlement would be used, three factors must be considered. First, there is a possibility that the State may never be able to exercise its full selection rights under the Statehood Act and that the State must look closely at every opportunity it has to select lands. Secondly, the lands which could be selected are, relative to the lands that will be remaining after implementation of ANCSA and settlement of the d(2) question, certainly in closer proximity to existing state lands and populated areas. Thirdly, an exercise of State selection rights would be the first selections under the Statehood Act in the past four years. In other words, the "right to select" certain lands now that are in close proximity to existing state selections is in and of itself of value. Using the very conservative total value for these lands of $40 per acre, and discounting the 20 township selection right by a factor of two-thirds to account for the use of selection entitlement, the result is an estimate of $6.1 million.

Thus, the total estimated value of the three factors described above is $32.1 million. This total, when added to the estimated appraised values cited in Table I. above, gives a total estimated economic value to the State of $97.1 million. To this total must be added or subtracted the values described below to which a reasonable economic value cannot be applied at this time, or perhaps ever,

with any degree of certainty.

B. Other Values--As mentioned earlier, there are two types of other values which must be taken into consideration for purposes of evaluating this proposal. First are economic values which cannot be identified with any reasonable specificity at this time, and secondly there are those values which might never be capable of having a specific economic value attached to them, but which are unquestionably of significant value none the less. Paragraphs number one and two below present, respectively, positive and negative values to the State associated with the present proposal. Although certainly not exhaustive, the listing attempts to outline the major non-economic values involved.

1. Positive Values--the following positive values would accrue to the State should the proposal be consummated.

(a) CIRI Court Suit--as explained earlier in this memorandum, if Cook Inlet wins its appeal the State might lose not only considerable acreage from its present selections south of Mt. McKinley National Park, but it might also lose substantial additional lands should the September 1972 out-of-court settlement with the Secretary be abrogated. In view of the District Court's decision that the Secretary was in error concerning his finding eleven villages ineligible, Cook Inlet Region's chances

of success with its court suit were measurably increased.

(b) Moose Range Surface Protection--private surface ownership within the Moose Range would be kept to a minimum, thus protecting the very significant wildlife and recreational values of the Moose Range. The Moose Range is also a state wildlife refuge and its already tremendous value for recreational pursuits including hunting, fishing, canoeing, etc., will continue to grow with increased settlement and development of state and private lands outside the refuge on the Kenai Peninsula. Some, however, would argue that maximum Moose Range lands should be given to the natives so that development may occur.

(c) Suitable Lands In Private Ownership--the state lands received by the Native corporations are lands suitable for settlement and development because of physical characteristics and location, thus substantially reducing future costs to the State to provide services to these areas. Additionally, the Native corporations receiving these lands will be in a much better position to develop them at an earlier date, thereby stimulating economic development and providing an

additional tax base both to the State and to the local governments involved.

(d) Kamishak Bay Lands--under the proposal the State would receive title to approximately 12 townships of land on the west side of Cook Inlet on Kamishak Bay. These lands would represent the only State presence on the west side of Cook Inlet for at lest 400 miles south of Kalgin Island. Kamishak Bay itself, owned by the State, is believed to have significant oil and gas resource potentials and these coastal lands represent the only feasible areas for onshore development facilities. This proposal would put these lands in State hands. Additionally, the terminus of the Interior Department's "western transportation corridor", which originates in Petroleum Reserve Number 4, terminates on Bruin Bay which the State would also receive.

(e) Talkeetna Mountain Land--the State would receive approximately 14 townships in the Talkeetna Mountains area, some of which would be located immediately adjacent to currently State patented land. Three of these townships are contiguous to one of the three final sites to be considered for the new State Capital. Additionally, the proposal would bring to

State ownership lands otherwise selected by Native groups which would be included in the current Talkeetna Mountain State Park proposal. The land trade would permit a manageable park boundary proposal to be established, thus obviating the inevitable costly routine of buying back private property in the future. Also, watershed protection for a new Capital or for other settlement to the west would be assured.

(f) Addition To Captain Cook Recreation Area--the proposal would insure that a minimum of 7 sections of land would be added to the Captain Cook Recreation Area from federal lands within the Moose Range. Otherwise, Native selection of these sections would result in a significantly less manageable recreation unit.

(g) Public Lands--the proposal would insure that lands with significant public interest would remain in public ownership, particularly in the vicinity of Lake Clark. In addition, the State would receive lands in the Chakachamna Lake area which would give the State significant bargaining power in influencing federal action with respect to hunting, mining or other State interests in any permanent federal withdrawal in the Lake Clark area.

(h) Increased State Presence in Bristol Bay--the proposal would increase the State's presence in the Bristol Bay area by gaining for the State approximately 25 townships of d(2) land in addition to the 12 townships on Kamishak Bay. The 17(d)(2) land would, of course, be otherwise unavailable to the State. This enhanced state position will strengthen the State's bargaining power with respect to the proposed National Resource Range in the Bristol Bay-Lake Iliamna area. If the Resource Range proposal is adopted as presently proposed, the State, with the single exception of the Wood River-Tikchik area, would be totally removed from any significant land ownership position west of Cook Inlet.

(i) State Interests in Other Federal Lands--under the proposal other federal surplus lands and unperfected public land entries which might go to CIRI within the region would be subject to a State veto and/or appeal process to protect State and public interests in these lands. Since the eventual settlement CIRI receives, whether by agreement, legislation, or by court action, will undoubtedly include these lands, the proposal represents the State's only opportunity to participate in protecting the public interests on these lands. As an example, the Bradley Lake Power Withdrawal is specifically protected from Native ownership; if the withdrawal should

be revoked, it could be selected by the State.

2. Negative Values--the following negative values would accrue to the State should the proposal be consummated.

(a) Beluga Coal Management--the proposal would remove the State from its current position of almost total ownership of lands in the Beluga area by putting into CIRI's hands approximately 25 percent of the measured and indicated coal reserves and surrounding lands which may contain additional reserves. While the State would still of course have very substantial environmental controls over mining through its air and water quality standards, etc., and while it could pass surface mining legislation applicable to private lands, it would lose the additional landlord power to control strip mining operations. However, with regard to revenues, the State would lose its royalty interest, but all informed opinion agrees that a severance tax would yield the best returns, and is the proper course for the State to follow.

(b) Loss of Port Area--approximately 7 sections of land northeast of the village of Tyonek with potential for industrial development and docking facilities would be transferred to native hands. Perhaps the best site on the west side of northern Cook Inlet, which is located just to the south of these 7 sections, is already owned

by the village of Tyonek. The State would retain, however, another site of at least equal suitability and potential just west of the Tyonek village lands. This latter site is the one which has benn primarily suggested and studied from the standpoint of the use and/or shipping of coal from the existing coal leases in the Beluga area.

Economic Summary--As mentioned earlier in determining equal value two types of value have been used; value in economic terms and value in a sense which cannot be strictly expressed in dollars. As outlined above, the economic values themselves which accrue to the State are in excess of those values which the State relinquishes. These are calculated as shown below.

TABLE 2.
SUMMARY OF ESTIMATED ECONOMIC VALUES ($MILLIONS)

GIVEN BY STATE

Existing values relinquished	74.0
TOTAL	74.0

RECEIVED BY STATE

New values received	65.0
Existing values not lost	32.1
TOTAL	97.1

To the total economic values received by the State the non-economic values cited above, both positive and negative, must be added. Since the degree to which these non-economic values accrue positive or negative benefits to the State is somewhat subjective, certainly no quantifcation is possible. However, they are very important considerations and any decision making process must reasonably incorporate

them in determining the overall equal value consideration.

Finally, it should be emphasized that the agreement represents a negotiated settlement, which is an extremely important factor. First, it can certainly be suggested that negotiation, particularly regarding non-quantifiable items, is man's best procedure for reaching equity. While this is not relied upon for legal foundation here, it is nonetheless crucial for public policy reasons.

Second, a settled three party negotiation implies that each has left the bargaining feeling that either he got a fair and equal share, or more likely, a better share than the others. The Director would certainly assert the latter in terms of a negotiated value for the State, but would recognize that each party may feel the same for its own reasons and seek to demonstrate this to its constituency or higher authority.

Third, it is important to convey some sense of the "paths not taken" regarding trading items and other values. While no blanket conclusion is possible, there can be every assurance that a comprehensive effort took place, over many months, to seek out and discuss a multitude of alternatives before reaching the agreement herein.

Conclusions and Recommedations

This memorandum of transmittal has attempted to outline in a structured fashion the basis for State participation, the process of that participation, and the results as found in the proposal. It is my conclusion that State participation

In the modified proposal as described above is in the best interests of the State and that the State will receive considerable excess value for the value it relinquishes. As your approval and the concurrence of the Governor are needed to authorize State participation in this proposal, this document can serve as basis for that decision, augmented by any further information you may require. In this particular case since you have been very closely and continuously involved with the process, and as the Governor has been fully briefed at several different times, I believe most of the aspects are suitably covered above, and in the complete files on this matter.

While it is my opinion, and that of most others I know who have addressed the matter in detail, that the Executive Branch presently has the state statutory authority to execute this proposed land exchange, it is also true that questions have been raised by members of the public and by legislators concerning the adequacy of this authority. While I believe that these questions would certainly be answered by the courts in the executive's favor, the process of litigating a test case would be inordinately time-consuming. That intervening litigation period would protract the commencement of passage of lands under the agreement, a consequence which all parties regard as undesirable, and possibly fatal, if the basic merits of the agreement are accepted.

There is no doubt that the proposed exchange cannot come to pass without prior federal legislation clearing its way under NEPA and Section 6(i) and dealing with other matters of implementation. The opportunity - perhaps the only opportunity - for such legislation is upon us now with the omnibus ANCSA amendments bill.

After the Congressional legislation is passed, it of course will be necessary for the State to assent to the exchange. While the Commissioner is authorized under existing law to give that assent, unilateral executive action on a matter of this

magnitude would be inconsistent with the policy of the present administration that all important social institutions should have the opportunity to participate to the fullest extent possible in such decisions. Therefore, I believe the State should structure the proposed transaction so as to maximize the Legislature's ability to participate in the decision. (Indeed, the Administration endeavored to involve the Legislature throughout the public review process as the proposal has been developed.) The problem, of course, is that there is no mechanism by which the federal government can legally "negotiate" the matter through the Legislature during the session, for Congress must act now to get federal authority for a specific proposed transaction. Nor is it likely under our Constitution that the Legislature could, or would choose, to do so.

Given these premises, the only opportunity that the State has to insure that the Legislature may pass upon the merits of the proposal is for Congress to enact legislation empowering the Secretary to consummate the transaction (removing federal obstacles to the State's participating), such legislation to be subject to the State's subsequent consent. The state administration, in its turn, pledges that consent to the Congressionally legislated "offer" will be forthcoming, if at all, only after review and consideration by the Legislature. An action by the Legislature disapproving the exchange should result in an action by the Governor denying consent.

If the decision is made to seek legislative review the time factor is particularly important. For several reasons, including the Congressional need for certainty the inexorable progress of Cook Inlet's appeal, and the dynamic nature of land status in Alaska, final action by the State would be needed as soon as practicable consistent with the Legislature's need to have a thorough opportunity to review the proposal in sufficient detail to make responsible public policy. I believe we would be in a position during the first week of the session to thoroughly brief

members of the Legislature and make available to them any information we might have concerning the proposal. Under that scenario it would appear that 50 to 60 days should be sufficient time for the Legislature to thoroughly review the proposal, particularly in view of the already widespread publicity and general public awareness of the various aspects of the proposal.

I close with the request that action taken affirmatively and expeditiously on this matter as I believe it to be a unique, perhaps singular, opportunity to achieve a vital series of public and private objectives. It is important, and in my view, right.

Federal-State
Land Use Planning Commission
For Alaska

701 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

October 30, 1975

Honorable Henry M. Jackson
Chairman
Senate Committee on Interior
and Insular Affairs
Attn: Steve Quarles
3106 Dirksen Building
Washington, D.C. 20510

Dear Chairman Jackson:

It is our understanding that the Interior Committee will soon commence its markup of certain proposed amendments to the Alaska Native Claims Settlement Act. With this in mind, I am writing to communicate the Commission's strong support for amendatory legislation relating to the land entitlement of Cook Inlet Region, Inc., and its constituent villages, as such legislation is described in the recently announced agreement between Cook Inlet and the State of Alaska.

For the past three years, the Commission has been actively involved in efforts to resolve the land-related problems which have confronted Cook Inlet and its constituent villages. These efforts have taken the form of technical assistance to the regional corporation and, more recently, to the State of Alaska, and recommendations to the Secretary of the Interior with respect to the location and quantity of withdrawals needed to help satisfy the requirements provided in Section 11(a)(3) of the Settlement Act. Most recently, the full Commission has considered the tentative agreement arrived at between Cook Inlet and the State of Alaska. On the basis of this consideration, which took place at a Commission meeting held on October 24-25, 1975, I have been authorized to communicate our unanimous support for the approach taken in the proposed agreement.

The Commission's position is premised on the following principal considerations. First, in our opinion, a significant portion of the acreage presently withdrawn for possible selection by Cook Inlet does not meet the qualitative criterion provided in Section 11(a)(3) of the

Settlement Act. In arriving at this conclusion, we are cognizant of the Federal District Court's ruling in Cook Inlet v Morton, and are constrained to disagree with that portion of the ruling which relates to compliance with the criteria specified in Section 11. Second, the land status pattern in the Cook Inlet region, which encompasses large Federal withdrawals and significant acreage in State and private ownership, indicates that it would be very difficult for Cook Inlet to obtain a satisfactory land entitlement in the absence of the land exchanges and other mechanisms provided in the pending agreement. Third, implementation of the agreement would greatly improve land management within the Cook Inlet region by consolidating Federal, State, and Native ownership in areas which aptly reflect the interests of the various parties. Thus, for example, the agreement would result in Native ownership of certain areas on the Kenai Peninsula which, by virtue of their location, soils, and other characteristics, appear suitable for private settlement and development. Similarly, the State would obtain additional lands in the Bristol Bay watershed, which is of critical importance to the State for its fishery and recreational values, and the Federal government would be assured of a viable management unit in the Lake Clark area, which has been proposed for national park status pursuant to Section 17(d)(2) of the Settlement Act. Improved management and ownership patterns would also result in other areas of the Cook Inlet region, including the Talkeetna Mountains and the Kenai Peninsula. Fourth, the proposed agreement would lessen the impact of private ownership on the Kenai National Moose Range by reducing the total acreage that might otherwise be transfered to Native corporations and by requiring that certain protective measures be taken in a significant portion of the lands that would be conveyed. In short, implementation of the agreement would permit the creation of rational patterns of land management and ownership which reflect the varied interests of the parties involved. Neither the administrative nor judicial alternatives afford the flexibility which is necessary to accomplish this result.

In supporting the proposed agreement, the Commission does not mean to minimize the technical and other problems which must be overcome prior to its final adoption. For example, there are certain legal issues which must be addressed. However, the research conducted by our staff and more extensive work performed by attorneys for Cook Inlet and the State indicate that solutions to these problems do exist. Moreover, since the agreement would authorize Cook Inlet to select lands within the boundaries of certain other regional corporations, the views of those corporations must be considered with great care, and an effort must be made to insure that in the process of improving land ownership and management patterns in the Cook Inlet region, we do not jeopardize

the opportunity to create sensible patterns in other areas of the State. In addition, full participation on the part of Cook Inlet's constituent villages and groups will be required, for the agreement calls for the relocation of certain withdrawals made for their benefit. We believe that the participation and cooperation of all of the parties to the agreement and other affected Native corporations will create an atmosphere in which possible problems can be resolved and the objectives of the current proposal can be successfully achieved.

Thank you for your consideration of this correspondence.

Sincerely,

Burt Silcock, Jr.

Burton W. Silcock
Federal Co-Chairman

cc: Senator Ted Stevens
Senator Mike Gravel
Royston C. Hughes, Assistant Secretary, Program Development and Budget
Ken Brown, Legislative Counsel, Department of the Interior
Guy Martin, Commissioner, State Department of Natural Resources
Michael C.T. Smith, Director, State Division of Lands
Sam Kito, President, Alaska Federation of Natives
Roy Huhdorf, President, Cook Inlet Region, Inc.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 20, 1976

The Honorable Nels A. Anderson, Jr.
Chairman
House Resources Committee
Alaska State Legislature
Pouch V Capitol Building
Juneau, Alaska 99811

Dear Chairman Anderson:

I would like to cooperate with the Senate and House Resources Committees in their efforts to evaluate the Cook Inlet-State of Alaska Land Trade.

However, I cannot grant your request of February 16 for a 30-day extension of the March 12 deadline because it is out of my power to do so. Subsection 1 of Section 12 of the Act incorporates by reference the terms of the agreement of the parties (see page 42 of the House Report accompanying 6644).

Three conditions must exist before the Secretary of the Interior may act, the first of which is that the State of Alaska, within 60 days of the effective date of the Act, January 12, 1975, must irrevocably commit to the transaction: "Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document."

I believe that it is not only unrealistic to expect the federal Congress to pass yet another bill, but also inappropriate for us to expect them to do so when a little extra energy and committment by all of us can accommodate the March 12 deadline.

I assure you that I will do what I can to encourage the joint State-Federal Land Use Planning Commission to expedite their deliberation.

Sincerely,

Jay S. Hammond
Governor

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 27 1975

Honorable Avrum M. Gross
Attorney General
State of Alaska
Department of Law
Pouch K
Juneau, Alaska 99811

Dear Mr. Gross:

This is in response to your inquiry of February 23, 1976. Specifically, you inquire whether lands described in subsection IC(2)(e) of Terms and Conditions for Land Consolidation and Management in Cook Inlet Area (H.R. 94-729, 94th Congress, 1st Session, December 15, 1975; hereinafter Terms and Conditions), may be transferred to the State of Alaska by the Federal Aviation Administration for airport purposes. It is our understanding that FAA has the authority to make such a transfer by virtue of the Airport and Airway Development Act of 1970, 49 U.S.C. §§1701-1741 (1970).

Subsection IC(2)(e) of Terms and Conditions provides that Cook Inlet Region, Inc., may not include certain lands, including Point Woronzof, in the selection pool created by this document. The subsection further provides that:

> [S]uch lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this document.

The issue is whether this provision precludes transfer of part of the Point Woronzof tract to the State of Alaska by the FAA for other than park and recreation purposes, if the transfer were otherwise authorized by law.

The Terms and Conditions must be read in conjunction with section 12 of P. L. 94-204, January 2, 1976. This section directs the Secretary, after certain conditions are met, to make a number of conveyances to Cook Inlet Region, Inc., and to the State of Alaska. The mandatory conveyances to the State of Alaska are described in paragraph (d) of section 12, and this paragraph refers to the Terms and Conditions to clarify the identities and amounts of lands to be conveyed to the state. Section 12 does not specifically direct the Secretary to convey Point Woronzof to the state for park and recreation purposes. Paragraph (b) of section 12 states that the duties and obligations of the United States and Cook Inlet Region, Inc., under the Terms and Conditions, are ratified as a matter of federal law.

We should note that it certainly was not the intention of the Departmental or State negotiators that the subject provision be construed as exclusive. And we are not aware of any reason why legislation authorizing a transfer of land to the state for park and recreation purposes should be construed as prohibiting a transfer of those lands to the state for airport purposes, if that transfer were also authorized by law. Apparently, the State of Alaska desires to receive part of Point Woronzof for airport purposes, rather than for park and recreation purposes. We see no impediment to such an action, if the proposed FAA action is authorized by law.

Sincerely,

Curtis Bohlen

E. U. Curtis Bohlen
Deputy Assistant Secretary for
Fish and Wildlife and Parks

March 3, 1976

Representative Terry Gardiner
Juneau, Alaska

Dear Rep. Gardiner;

I want to make it clear for the record that Cook Inlet Region agrees with the state that nothing in the terms and conditions included in House Report 94-729 is intended to require a conveyance by the federal government that would preclude the use of Point Woronzoff by the state or the borough for public purposes including an airport runway.

We have joined the state in urging the Department of the Interior to issue an opinion that would confirm the needed flexibility in the state. It is my understanding that such a letter is on the way.

Sincerely,

Roy Hundorff

#1

1. Special Act
2. Mineral Rights
3. Equal Value
4. "Left Field"

Original sponsor: Rules Committee by request of the Governor

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 784

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Cook Inlet land exchange; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. PURPOSE. The purpose of this Act is to provide for settlement of certain claims and in so doing to consolidate land ownership among the United States, the Cook Inlet Region, Incorporated, and the State of Alaska in order to facilitate land management, to create land ownership patterns which encourage settlement and development in appropriate areas, to facilitate implementation of the Alaska Native Claims Settlement Act by resolving problems created in context of the Act by the concentration of state patented land selected within the Cook Inlet region and to preclude the need for regional selections that would impact important state interests. The legislature finds the Cook Inlet land exchange is a matter of statewide significance, is in the general public interest, will accomplish the purposes set out and will both settle existing litigation and foreclose possible protracted and devisive litigation.

* Sec. 2. APPROVAL OF TRANSFER. The governor is authorized to convey to the United States for exchange with Cook Inlet Region, Incorporated, that land described in Appendix C of the agreement entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, December 10, 1975" set out in House of Representatives Report No. 74-729, 94th Congress, First Session in accordance with the conditions of that agreement. The conveyance shall pass all the state's right, title and interest in the land, including the mineral subsurface estate notwithstanding any other provisions

subsurface mineral rights

38.95.060 - equal value exchanges

of law.

Mineral Res. Equal Value

* Sec. 3. WAIVERS. The provisions of AS 38.05.125 and 38.95.060(c) do not apply to a conveyance made under this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

dup

Federal-State
Land Use Planning Commission
For Alaska

[illegible] FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

REC'D CIRI FEB 2 '76

ROUTE TO:	Info	Action	Initial	Date
PRESIDENT	✓			
GEN. MANAGER				
LAND DEPT.	✓			
VILLAGE COORDINATOR				
PUBLIC REL./EDITOR				
LEGAL DEPT.	✓			
CENTRAL FILES		1-		
COPY FOR BOARD MBRS.				
COPY FOR VILLAGES				

October 30, 1975

Honorable Henry M. Jackson
Chairman
Senate Committee on Interior
and Insular Affairs
Attn: Steve Quarles
3106 Dirksen Building
Washington, D.C. 20510

Dear Chairman Jackson:

It is our understanding that the Interior Committee will soon commence its markup of certain proposed amendments to the Alaska Native Claims Settlement Act. With this in mind, I am writing to communicate the Commission's strong support for amendatory legislation relating to the land entitlement of Cook Inlet Region, Inc., and its constituent villages, as such legislation is described in the recently announced agreement between Cook Inlet and the State of Alaska.

For the past three years, the Commission has been actively involved in efforts to resolve the land-related problems which have confronted Cook Inlet and its constituent villages. These efforts have taken the form of technical assistance to the regional corporation and, more recently, to the State of Alaska, and recommendations to the Secretary of the Interior with respect to the location and quantity of withdrawals needed to help satisfy the requirements provided in Section 11(a)(3) of the Settlement Act. Most recently, the full Commission has considered the tentative agreement arrived at between Cook Inlet and the State of Alaska. On the basis of this consideration, which took place at a Commission meeting held on October 24-25, 1975, I have been authorized to communicate our unanimous support for the approach taken in the proposed agreement.

The Commission's position is premised on the following principal considerations. First, in our opinion, a significant portion of the acreage presently withdrawn for possible selection by Cook Inlet does not meet the qualitative criterion provided in Section 11(a)(3) of the

Settlement Act. In arriving at this conclusion, we are cognizant of the Federal District Court's ruling in Cook Inlet v Morton, and are constrained to disagree with that portion of the ruling which relates to compliance with the criteria specified in Section 11. Second, the land status pattern in the Cook Inlet region, which encompasses large Federal withdrawals and significant acreage in State and private ownership, indicates that it would be very difficult for Cook Inlet to obtain a satisfactory land entitlement in the absence of the land exchanges and other mechanisms provided in the pending agreement. Third, implementation of the agreement would greatly improve land management within the Cook Inlet region by consolidating Federal, State, and Native ownership in areas which aptly reflect the interests of the various parties. Thus, for example, the agreement would result in Native ownership of certain areas on the Kenai Peninsula which, by virtue of their location, soils, and other characteristics, appear suitable for private settlement and development. Similarly, the State would obtain additional lands in the Bristol Bay watershed, which is of critical importance to the State for its fishery and recreational values, and the Federal government would be assured of a viable management unit in the Lake Clark area, which has been proposed for national park status pursuant to Section 17(d)(2) of the Settlement Act. Improved management and ownership patterns would also result in other areas of the Cook Inlet region, including the Talkeetna Mountains and the Kenai Peninsula. Fourth, the proposed agreement would lessen the impact of private ownership on the Kenai National Moose Range by reducing the total acreage that might otherwise be transfered to Native corporations and by requiring that certain protective measures be taken in a significant portion of the lands that would be conveyed. In short, implementation of the agreement would permit the creation of rational patterns of land management and ownership which reflect the varied interests of the parties involved. Neither the administrative nor judicial alternatives afford the flexibility which is necessary to accomplish this result.

In supporting the proposed agreement, the Commission does not mean to minimize the technical and other problems which must be overcome prior to its final adoption. For example, there are certain legal issues which must be addressed. However, the research conducted by our staff and more extensive work performed by attorneys for Cook Inlet and the State indicate that solutions to these problems do exist. Moreover, since the agreement would authorize Cook Inlet to select lands within the boundaries of certain other regional corporations, the views of those corporations must be considered with great care, and an effort must be made to insure that in the process of improving land ownership and management patterns in the Cook Inlet region, we do not jeopardize

the opportunity to create sensible patterns in other areas of the State. In addition, full participation on the part of Cook Inlet's constituent villages and groups will be required, for the agreement calls for the relocation of certain withdrawals made for their benefit. We believe that the participation and cooperation of all of the parties to the agreement and other affected Native corporations will create an atmosphere in which possible problems can be resolved and the objectives of the current proposal can be successfully achieved.

Thank you for your consideration of this correspondence.

Sincerely,

Burt Silcock, Jr.

Burton W. Silcock
Federal Co-Chairman

cc: Senator Ted Stevens
Senator Mike Gravel
Royston C. Hughes, Assistant Secretary, Program Development and Budget
Ken Brown, Legislative Counsel, Department of the Interior
Guy Martin, Commissioner, State Department of Natural Resources
Michael C.T. Smith, Director, State Division of Lands
Sam Kito, President, Alaska Federation of Natives
Roy Huhdorf, President, Cook Inlet Region, Inc.

Smith	PLAN
Blackmun	RESPONSE
Smith	RESPONSE

Kay
Barnes
Iran

Alaska State Legislature
Senate

POUCH V
JUNEAU, ALASKA 99811

February 16, 1976

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch A, State Capitol
Juneau, Alaska 99811

Dear Governor Hammond,

Following several days of comprehensive hearings in Anchorage and Juneau, many questions relating to the Cook Inlet - State of Alaska land trade remain unresolved.

The joint Senate and House Resources Committees are now sifting the testimony received. In addition, we have requested the joint State-Federal Land Use Planning Commission to thoroughly examine the matter and report its findings to the Legislature. I am sure that you too would welcome their researched and reasoned contribution.

We are advised by both the Federal and State co-chairmen that they cannot complete their report prior to March 10th. This is only two days before the date given to the Legislature to comply with your request that it render either approval or disapproval on the matter.

Therefore, we respectfully request that you assist in securing a 30 day extension to the Legislature, so that it can complete its own work toward a reasoned decision of acceptance or rejection of the Terms and Conditions of the land trade between the State of Alaska and the Cook Inlet Regional Corporation.

Sincerely yours,

Kay Poland
State Senator

Nels A. Anderson, Jr.
Representative

KP:ss

CC: Chancy Croft, Senate President
Mike Bradner, Speaker of the House
Mr. David Jackman
Mr. Burton Silcock

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 20, 1976

The Honorable Kay Poland
Chairperson
Senate Resources Committee
Alaska State Legislature
Pouch V Capitol Building
Juneau, Alaska 99811

Dear Kay:

I would like to cooperate with the Senate and House Resources Committees in their efforts to evaluate the Cook Inlet-State of Alaska Land Trade.

However, I cannot grant your request of February 16 for a 30-day extension of the March 12 deadline because it is out of my power to do so. Subsection 1 of Section 12 of the Act incorporates by reference the terms of the agreement of the parties (see page 42 of the House Report accompanying 6644).

Three conditions must exist before the Secretary of the Interior may act, the first of which is that the State of Alaska, within 60 days of the effective date of the Act, January 12, 1975, must irrevocably commit to the transaction: "Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document."

I believe that it is not only unrealistic to expect the federal Congress to pass yet another bill, but also inappropriate for us to expect them to do so when a little extra energy and committment by all of us can accommodate the March 12 deadline.

I assure you that I will do what I can to encourage the joint State-Federal Land Use Planning Commission to expedite their deliberations.

Sincerely,

Jay S. Hammond
Governor

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA, DECEMBER 10, 1975

I. The United States shall convey to Cook Inlet Region, Inc., the following lands:

A. Sixteen (16) sections of land, as described in Appendix A, presently within the boundaries of the Kenai National Moose Range, excluding the bed of Lake Tustumina, but to be removed from the boundaries of the Range. The conveyance of these lands shall be subject to the following conditions:

(1) Included in the lands described in this paragraph shall be a restricted zone of lake front and river front lands, not to exceed an average of 160 acres per linear mile, to be measured from the high water line, the exact boundaries to be determined by mutual agreement between CIRI and the Secretary no later than September 1, 1976. The conveyance of the lands within this zone shall contain the following restrictions so long as Lake Tustumena remains a part of the Range:

(a) A restrictive covenant running with the land which provides that no development shall take place or facilities be

constructed within the zone, except those which are directly necessary to support water dependent activities, such as a boat dock, airplane tie-up and marina. Reasonable access to these facilities will be permitted. It is contemplated that a lodge may also be located within the restricted zone, provided, however, that the lodge shall be of such a design, size and at a location agreed upon by the United States Fish and Wildlife Service. CIRI must submit a request in writing to the Fish and Wildlife Service for approval of any construction or development within the zone, which approval will not be unreasonably withheld. The Fish and Wildlife Service will notify CIRI of its decision on any such request within 120 days of receipt of such request, and failure of any response will be considered as approval.

(b) a provision that CIRI will not sell the lands to any third party for a period of 25 years from the date of the conveyance, without the consent of the Secretary.

(c) a provision that CIRI and its assigns will offer the United States the right of first refusal to purchase the lands if the lands are ever sold. The right of first refusal shall be for a period of 120 days from the date of notice in writing to the United States that the owner of the land has received a bonafide offer of purchase. The United States shall not be deemed to have exercised its right of first refusal if the owner does not consummate this sale in accordance with notice to the United States.

(d) the conveyance of the lands comprising this restricted zone shall not include the bed of Lake Tustumena and shall only convey the surface estate to CIRI. The United States shall retain the rights in oil and gas and all minerals, including but not limited to common varieties of minerals.

(e) the United States reserves the right of re-entry on these lands to be exercised upon occurrence of the following conditions:

(1) The United States obtains a final judgment in a proceeding in law or equity to enforce in whole or in part the restrictive covenants contained in the conveyance of the lands described in this section; and

(2) subsequent to such final judgment, the United States institutes proceedings in law or equity to enforce the provisions of the restrictive covenants which were the subject of the final judgment obtained in subparagraph (1) of this paragraph. The right of re-entry shall be asserted in such subsequent action but may not be actually exercised except upon and in accordance with the final judgment in favor of the United States in such subsequent action.

(3) such right of re-entry shall be limited, in any case, to the lands which were the subject of the final judgment referred to in subparagraph (1) hereof.

(2) The remainder of the lands described in Appendix A shall be conveyed to CIRI without restriction, other than the reserva-

tion of those easements authorized by 17(b) of ANCSA or other applicable federal statutes. The conveyance of such remainder shall include both the surface and the subsurface estates to such lands.

B. Three and fifty-eight one hundreds (3.58) townships of the subsurface estate to oil and gas and coal as identified in Appendix B; provided that the United States shall retain all other minerals including but not limited to common varieties of minerals; and provided that the right to extract coal shall be conditioned upon the opening for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. The extraction of oil and gas and coal shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by CIRI, its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction. The United States shall make available to CIRI, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect. By mutual consent of CIRI and the Secretary, CIRI may exchange any interest described in this paragraph for other mineral interests of equal value outside the boundaries of the Kenai National Moose Range.

(1) All federal lands and interests in lands within the following:

(a) T. 10 S., R. 9 W., F. M. (Healy); and

(b) T. 20 N., R. 9 E., S. M. (Glenn Highway).

(2) T 1 N R 21 W, S. M. (sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36). The Secretary shall only convey the rights to metalliferous minerals in the land herein described. Extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary. Surface use of the purposes of exploration, extraction, access and beneficiation shall be conducted in accordance with the most advanced technology commercially available at that time consistent with the exercise of the rights conveyed under this subparagraph. CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights.

(3) T 1 S, R 21 W, S. M. (Sections 3-10, 15-22, 29 and 30) The Secretary shall transfer to CIRI the above described lands in fee simple. Such conveyance shall be subject to a restrictive covenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRI, an easement for a port which shall reasonably provide for receiving, shipping, storage and incidental handling, and incidental facilities thereto, of the minerals extracted from the lands conveyed under

this subparagraph. The Secretary shall also convey to CIRI a transportation easement to provide for transportation by road, rail or pipeline, of the minerals from the above described lands to the port easement. The Secretary and CIRI shall mutually agree upon the location of the port and transportation easements.

C. (1) Twenty nine and sixty six one hundredths (29.66) townships from any federal public lands withdrawn under sections 11(a)(1), 11(a)(3), and 17(d)(1) without the exterior boundaries of Cook Inlet Region; to be identified in the manner herein provided; provided that if CIRI's total entitlement under Section 12(c) of ANCSA is determined to be greater or less than 54 townships, the number of townships to be conveyed under this paragraph (hereinafter out-of-Region entitlement) shall be increased or decreased one for one.

(a) lands to be nominated and conveyed under this paragraph C-1 shall be limited as follows: The entitlement shall be satisfied from lands within Ahtna Region, Bristol Bay Region, Calista Region, Chugach Region, and Doyon Region. With the concurrence of the Secretary and the State and any affected Region other than those described above, selections may be made from one or more of the other Regions, on the basis hereinafter described or on such other basis as the parties shall contemporaneously agree. CIRI shall not nominate any of the following:

(1) lands located west of the 161 degree west longitude of Greenwich Meridian

(2) lands within Areas of Environmental Concern as described in the Secretary's 1973 Four Systems proposals to Congress

(3) lands within any of the Secretary's 1973 Four Systems proposals to Congress

(4) lands made available to the State for selection pursuant to Sections 2 and 5 of the State-Federal Agreement of September 1, 1972.

(b) By May 1, 1976 the Secretary shall, after consultation with the State, submit to CIRI a list of areas where approval of out-of-Region selections is unlikely. CIRI may thereafter nominate to the Secretary, with simultaneous notice to the State, a township or townships for selection. Within 120 days after such nomination, the Secretary after consultation with the State shall approve or disapprove it for withdrawal for placement in the selection pool as described herein. By October 18, 1978 CIRI must nominate at least 6 times its remaining out-of-Region entitlement. If the Secretary fails to approve a pool of three times that remaining out-of-Region entitlement from said nominations, then he and CIRI, by mutual consultation and study, shall agree by January 18, 1979 on sufficient additional townships to compose that number. The Secretary must, on that date, report to Congress as to the operation of this selection mechanism, and the need for remedial legislation, if required. Upon completion of the pool, the State and CIRI shall commence a striking and selecting process. The State may strike ten percent of the pool and the Region may select a number of townships equal to ten percent of the original pool. Alternate strikes and selections of five percent of the

original pool shall continue until CIRI's out-of-Region entitlement is, as defined in this paragraph, satisfied. The State and CIRI must complete this process within four months of completion of the pool. Notwithstanding the foregoing, with the consent of the United States, State of Alaska, and CIRI, lands may be conveyed wihout resort to the pool and striking mechanism herein provided, or in the manner described in subparagraph 2 of this paragraph C, in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Statehood Act which may be affected by this paragraph C, provided however, that any Regional nomination made hereunder shall be superior to and take precedence over any such State selection made after July 18, 1975. None of those lands selected by the State under the Statehood Act after July 18, 1975, and also nominated by CIRI pursuant to this paragraph C, shall be tentatively approved for patent to the State by the Department of the Interior for so long as these lands are potentially available to CIRI under this subparagraph unless CIRI has consented to such tentative approval.

(d) Lands approved by the Secretary for the out-of-Region pool shall, as of the date of such approval, be withdrawn from all forms of entry and location under the Public Land Laws including the mining and mineral leasing laws, but not from selection by the State, for so long as the said lands shall be included in the said pool.

(e) Prior to nomination of any townships for secretarial approval, the Region shall obtain the consent of other Native Corporations where applicable, and a copy of such consent shall be attached to such nomination.

(f) CIRI shall select its out-of-Region entitlement in blocks no less than 36 sections in size, along section lines, with no segment of an exterior line less than six miles in length, unless the Secretary specifically authorizes another manner of selection.

(g) CIRI may, with the consent of the Secretary and the State, select that portion of the mineral estate reserved by the United States in a township if the remainder of the estate may not be legally or readily available for selection, in which case, however, such substitute selection shall be treated as full satisfaction of the entitlement represented by the acreage involved and no additional selection rights shall arise by reason of the lack of conveyance of the entire estate.

(h) It is the intent of the Secretary and the State that all out-of-Region selections shall be as compact as is practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately owned lands.

(i) Nothing in this paragraph shall be construed as limiting any Congressional review and approval of the Secretary's 1973 four systems proposals to Congress.

2(a) The Secretary, in conjunction with the General Services Administrator, shall promptly identify and take the necessary steps by

January 15, 1978, to create a selection pool which shall consist of all the following lands, within the exterior boundaries of the Cook Inlet Region, now in existence or hereafter coming into existence by January 15, 1978:

(i) abandoned or unperfected public land entries, provided however, that the United States shall not be obligated to initiate any adversary proceedings other than an adjudication by the BLM to determine if such entries are abandoned or unperfected, and the burden of identifying such lands shall be on CIRI;

(ii) federal surplus property;

(iii) revoked federal reserves;

(iv) cancelled or revoked power site reserves, with the exception of the Bradley Lake reserve, reserves in the Lake Clark proposal, and the Chakachamna Lake reserve, if any are ever cancelled or revoked;

(v) public lands created by the reduction of federal installations as defined in Section 3(e) of ANCSA, except that, if such lands are within a Section 11(a)(1) withdrawal area, they shall be subject to prior Village Corporation selections properly filed prior to December 18, 1975; and

(vi) any other federal lands as agreed by the State the Region and the Secretary, including but not limited to lands withdrawn under Section 17(d)(1) of ANCSA and not withdrawn for any other purpose.

The Secretary shall notify CIRI after any above-described lands have been placed in the pool. With the concurrence of CIRI, the State and any other concurrence that may be required under paragraph I-C(1)(e) of this Document, the Secretary may, in his discretion, contribute to such pool properties of one or more of the foregoing categories from without the boundaries of the Cook Inlet Region, provided that properties described in subparagraphs (2)(a)(ii) and (2)(a)(iii) of this paragraph shall be removed from the pool if not selected by CIRI within 90 days after the Secretary notifies CIRI that such properties have been placed in the pool or valued by the Secretary in Subparagraph 2(c) of this document whichever date is later.

(b) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph 2(a) and may require Secretarial consultation with the Joint Land Use Planning Commission with respect to any specific piece of property so included, except those in subparagraph 2(a)(i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land-management principles; provided, that the Secretary shall not be bound by any recommendation of the Joint Land Use Planning Commission. The Secretary shall notify the State, CIRI and the Commission of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres, described in paragraph 2(a)(i) and 2(a)(iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal values. Lands not included in the pool as result of the State's conclusive objection or which have been replaced by the

State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

(c) Unless specifically excepted by the Secretary, all tracts of land and improvements thereto in said pool shall be appraised by one or more appraisers mutually agreeable to CIRI and the Secretary.

(d) CIRI shall be entitled to select any tract of land from said pool in exchange for its out-of-Region selection rights, in part or in whole and *pro tanto*, in satisfaction thereof, in the following manner:

(1) any tract of land and improvements thereto specifically excepted from appraisal by the Secretary as described in subparagraph (c) of this paragraph may be exchanged acre for acre;

(2) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at less than $500 per acre at fair market value may be exchanged acre for acre;

(3) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at $500 per acre or more at fair market value shall be exchanged as follows:

(i) for each acre of land in said tract, each valued increment of $500 or proportion thereof shall be considered an acre of land or proportion thereof, in the same proportion, hereinafter called an "acre/equivalent"; and

(ii) any acre/equivalents may be exchanged for any acres of CIRI's out-of-region entitlement.

(e) Anything in the foregoing provisions notwithstanding, the selection pool created hereunder shall not include or affect lands within the Point Woronzof, Point Campbell, Goose Lake, and Campbell tracts, to which CIRI waives any claim which it may have had; and such lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this Document.

(f) The Secretary shall utilize his best efforts to maximize the pool through the use of all available properties within the described categories in order to enhance the opportunity for the land exchanges described herein. If, by January 15, 1978, the Secretary and the General Services Administrator have not identified for the pool at least 138,240 acres, or acre/equivalents of lands within the exterior boundaries of Cook Inlet Region, the Secretary shall add to the pool an amount equal to the difference between 138,240 acres, or acre/equivalents, and the number of acres so identified from the following:

(1) with the consent of the State, lands located within the boundaries of the Region, withdrawn for the purposes of section 17(d)(1) of ANCSA, and valued by the Secretary and CIRI at $200 per acre, or more,

(2) with the consent of the State and CIRI, lands described in subparagraph I-C(2)(a) of this Document from without the exterior boundaries of Cook Inlet Region.

CIRI must select all lands in the pool located within the Region which are valued by the Secretary and CIRI at $200 per acre, or more, until CIRI has selected 138,240 acres, or acre/equivalents as described in subparagraph 3(i) of this paragraph.

(g) No later than 90 days following the conclusion of the period for creation of the pool as specified in subparagraph (1) hereof, the Secretary shall, with the assistance of the General Services Administrator, report to Congress on the status of the conveyances under paragraph C and the need for remedial legislation, if required.

(h) Conveyances under this subparagraph I–C(2) shall not be subject to the provisions of Section 22(1) of ANCSA.

II. Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document. Said lands shall be considered State lands until the United States accepts the State deed of title. Upon acceptance of a State deed of title, the Secretary shall withdraw the lands conveyed thereby, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended; such withdrawal to expire upon reconveyance of said lands to CIRI.

III. A. The Secretary shall convey to the State of Alaska all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of lands from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River and Koksetna drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to Appendix D hereof; and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in Appendix E hereof.

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act; provided, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6 of the Alaska Statehood Act.

B. The Secretary shall convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in Appendix F hereof except for one compact unit of land which he determines, after consultation by the State of Alaska, is actually needed by the Bureau of Land Management for its present operations; provided, that in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in conformance with the generalized land use plan outlined in the Far North Bicentennial Park master development plan of September, 1974.

As a result of Section 12(a) of ANCSA, selections by Village corporations within the Kenai National Moose Range, or as a result of any section 14(h) (1), (2) or (5) of ANCSA selections within the Kenai National Moose Range or within the Secretary's 1973 Lake Clark proposal; and to the extent that CIRI's section 12(a) of ANCSA subsurface rights are reduced by virtue of exchanges resulting in the relinquishment of village selections in the Secretary's 1973 Lake Clark proposal or lands in paragraph VI CIRI shall take, in lieu thereof, an equal acreage from the following:

(a) The subsurface estate to oil and gas and coal in those lands described in Appendix B to the extent that such interests are not transferred under paragraph I–B of this Document, and are subject to the restrictions therein described; and

(b) Up to 46,080 acres of lands within section 11(a)(3) of ANCSA withdrawals in the Talkeetna Mountains; provided CIRI shall make all 12(b) selections in this withdrawal contiguous to existing 12(a) selections, first selecting all over-selected 12(a) lands in this withdrawal.

(c) If sufficient acreage to satisfy any such selections does not exist in those areas described in subparagraphs (1) and (2) of this paragraph, the Secretary shall make available lands outside the Region, in his discretion, for selection by CIRI.

Except as provided otherwise in this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act; provided, however, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

C. The Secretary shall make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in Appendix G.

IV. The lands and interests conveyed to CIRI under paragraphs I and II of this Document shall constitute CIRI's full entitlement under Section 12(c) of ANCSA, except that the mineral estate conveyed pursuant to subparagraph I–B of this Document shall constitute full entitlement of CIRI's surface and subsurface entitlement under Section 14(h)(8) of ANCSA. The lands which would comprise the difference in acreage between the lands actually conveyed under paragraphs I and II of this Document, and any final determination of what CIRI's acreage rights under Section 12(c) and 14(h)(8) of ANCSA would have been notwithstanding the provisions of this Document, shall be retained by the United States, and this Document shall create no right or interest in any other Regional Corporation or Village Corporation notwithstanding any provisions of ANCSA to the contrary.

To the extent that CIRI is or becomes entitled to subsurface rights;

V. The Secretary, CIRI, and the State shall seek legislation authorizing the Secretary to convey title to those selections by Native Corporations within the exterior boundaries of Power Site Classifica-

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tion 443, February 13, 1958, provided however, that the patents conveying the above described lands shall contain the reservations required by Section 24 of the Federal Power Act, 16 U.S.C. 818.

VI. A. The State shall not select any of the following lands, so that such lands may be added to a management unit in the Lake Clark Area:

T 4 S R 23 W (N ½), S.M.
T 3 S R 20–24 W, S.M.
T 2 S R 24–25 W, S.M.
T 1 S R 24–26 W, S.M.
T 1 S R 27 W (sections 1–6, 8–15, 23–25), S.M.
T 1 S R 28 W (sections 1–6), S.M.
T 1 S R 29 W (sections 1–6), S.M.
T 1 N R 24–29 W, S.M.
T 2 N R 24–30 W, S.M.
T 3 N R 28–30 W and 31 W (E½), S.M.
T 4 N R 30 W and 31 W (E ½), S.M.

B. The Secretary, CIRI and the State recognize that there are nationally significant resources in the Lake Clark area. Management of this area should be flexible and recognize the scenic, recreational, and inspirational resources that should be preserved as well as State and local interests including subsistence and sport hunting.

VII. A. In fulfillment of its obligation to equitably reallocate acreage among villages pursuant to section 12(b) of the Act, CIRI shall allocate section 12(b) selections to the following areas:

1. Four and one-half townships in the Talkeetna Mountain withdrawal, provided that such selections shall be compact and contiguous to 12(a) selection in said withdrawals and 12(a) overselections shall be selected first;

2. All lands that will not otherwise be conveyed to the villages under 12(a) on the Iniskin Peninsula;

3. To the extent necessary to fulfill any remaining 12(b) entitlement lands within the following:

T 7 S, R 25 & 26 (Except Secs. 29–31) W, S.M.
T 6 S, R 25 W and 26 (E½) W, S.M.
T 5 S, R 25 W. S.M. (except sections 18, 19, and 30).
T 4 S, R 24 W (S½), S.M.
T 4 N, R 19 W, S.M.
T 4 N, R 20 W (E½) S.M.
T 4 N, R 18 W (W½) S.M.
T 3 N, R 17–20 W. S.M.
T 3 N, R 21 W (Secs. 31–36, and 25–30 in the Tuxedni River Watershed), S.M.
T 2 N, R 18–20 W. S.M.
T 2 N, R 21 W (North and East of the Tuxedni River and Bay), S.M.

B. By mutual consent of the Secretary and CIRI, Village Corporations within the Region may exchange selections or selection rights under section 12 of ANCSA for acres, or acre/equivalents contained in the pools established out in paragraph I–C(2)(a) of this document.

C. Up to two townships without the exterior boundaries of Cook Inlet Region, to be mutually agreed upon by the Secretary, CIRI, and

the State, shall be made available for 12(b) selection. To the extent acreage is allocated to a Native village pursuant to this subparagraph C, the village must have an equal amount of acreage, in section units, from 12(a) selections in the hereinafter described acres on an acre-for-acre basis outlined in this subparagraph in the out of Region townships identified in this paragraph:

T 4 S, R 23 W (N½) S.M.
T 3 S, R 20, 21, and 23 W, S.M,
T 2 S, R 19–21 W, S.M.
T 1 S, R 19–21 W, S.M.
T 1 N, R 20 W, S.M.

Provided that should the respective village not have any 12(a) selections in the above, 12(a) selection for the following shall be traded under the provision of this paragraph:

T 2 N, R 18–21 W, S.M.
T 3 N, R 18–20 W, S.M.
T 4 N, R 19–21 W, S.M.
T 5 N, R 19–20 W, S.M.

VIII. A. CIRI and the Secretary shall publicly support the establishment of a unit of the National Park System in the Lake Clark area including those lands withdrawn under section 17(d)(2) of ANCSA and those lands described in paragraph VI–A of this agreement. The Secretary and CIRI shall also agree to seek a provision in said legislation that would provide that before entering into any contract arrangement to provide new revenue producing services within the proposed Lake Clark Unit of the National Park System within the boundaries of the Cook Inlet Region, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days. CIRI and the Secretary shall seek legislation that provides that the United States may acquire lands selected by Village Corporations within the boundaries of the Lake Clark unit established by that legislation, but only with the consent of the appropriate Village Corporation.

B. CIRI and the Secretary shall publicly support the establishment of the Caribou Hills, Swanson River, Mystery Creek, and Andy Simons Wilderness Areas within the Kenai National Moose Range. CIRI and the Secretary shall seek a provision in such legislation that would provide that before entering into any contract or agreement to provide new revenue producing services within the Kenai National Moose Range, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days.

IX. Lands conveyed to CIRI and/or its Village and Group Corporations in accordance with this document, notwithstanding their source (whether federal or state), shall upon conveyance to CIRI and/or the appropriate Village or Group Corporation, be considered and treated as conveyances under and pursuant to ANCSA, except as may be expressly provided otherwise in this document.

X. As soon as practicable after any estate or interest in federal lands to be patented to CIRI in accordance with this document is identified,

CIRI and the Secretary shall review all leases, contracts, permits, rights-of-way and easements covering or concerning such estate or interest to determine whether the administration thereof may be waived by the Secretary, in his discretion, in accordance with the provisions of section 17(g) of ANCSA.

XI. Effective the date that State lands to be conveyed to the United States for CIRI are designated by CIRI pursuant of paragraph II of this document, the State, if so authorized, shall place all revenues received from such lands in escrow to be transferred to the Region when appropriate. The administration of all leases, contracts, permits, rights-of-way and easements prior to the conveyance of such lands to the United States shall be by the State, except that all decisions concerning modification, conversion, renewal or appraisal of such interests will be with the concurrence of the Region. Effective the date of conveyance of such lands from the State to the Secretary, the State shall waive in favor of CIRI administration of all leases, contracts, permits, rights-of-way and easements totalling embraced by such lands. The State shall give timely written notice of the change of ownership and administration to the holders of rights on such lands.

XII. The responsibilities of and benefits accruing to the Secretary, the State and CIRI under this document shall become binding only when such legislation as is necessary has been enacted. Upon passage of such legislation, CIRI and all plaintiffs/appellants shall, with the consent of the Secretary, dismiss their pending appeal in *Cook Inlet Region vs. Kleppe*, No. 75-2232, (9th Cir.) by executing and filing pursuant to Rule 42(h) of the Federal Rules of Appellate procedure an agreement that the proceeding may be dismissed.

XIII. A. For the purposes of this document, a township shall be considered 23,040 acres.

B. The words "land" and "lands" as used in this document shall not include properties owned by the State of Alaska under section 6(m) of the Alaska Statehood Act and the Submerged Lands Act.

Appendix A

T. 1 N., R 11 W S.M.

Secs. 1–4, 9–12, 16, W½S17—comprising approx. 6,080 acres, more or less

T. 2 N., R 11 W S.M.

Sec. 9, approx. 70 acres in the SW¼ lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 16, approx. 430 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 21, all.

Sec. 22, approx. 130 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 27, approx. 330 acres comprising all moose range lands in this section lying west of the high water mark on the west bank of the Kasilof River and those lands in this section lying south and west of the high water line on the south and west shore of Tustemena Lake.

Sec. 28, all.
Sec. 33, all.
Sec. 34, approx. 600 acres comprising all moose range lands in this section lying south and west of the high water line on the south shore and west shore of Tustemena Lake.
Sec. 35, approx. 290 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.
Sec. 36, approx. 360 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.
Comprising approximately 4,160 acres, more or less.

Appendix B

Appendix B-1

82,560 acres of the specified mineral estate to be selected from the following described lands:*

Priority

1—T. 8 N., R. 9 W; Secs. 1–8; Sec. 9 excluding E/2 SE/4, NW/4 SE/4, SE/4 NE/4; Sec. 10 excluding SW/4, S/2 SE/4, NW/4 SE/4, S/2 NW/4, NW/4; Secs. 11–14; Sec. 16 W/2; Secs. 17–20; Sec. 21 excluding NE/4, E/2 NW/4, NE/4 SW/4, N/2 SE/4, SE/4 SE/4; Secs. 23–26; Sec. 27 excluding N/2. SW/4, W/2 SE/4; Sec. 28 excluding SE/4, E/2 SW/4, E/2 NE/4, SW/4 NE/4; Secs. 29–31; Sec. 32 excluding S/2 SE/4, NE/4 SE/4, Sec. 33 excluding S/2, NE/4, S/2 NW/4, NE/4 NW/4; Sec. 34 excluding W/2, W/2 NE/4; Secs. 35–36–comprising approx. 18,440 acres.

1– T. 8 N., R. 10 W.: Secs. 1; 12–14; 23–26; 32–36–comprising approx. 7,680 acres.

1—T. 7 N., R. 9 W.: Sec. 3, E/2; Sec. 5 excluding S/2, NE/4; Secs. 6; 7; 8 excluding E/2, E/2 SW/4, E/2 NW/4, NW/4 NW/4; Sec. 10 excluding W/2 SW/4, W/2 NW/4, NE/4 NW/4; Sec. 14 excluding NE/4; Sec. 15; Sec. 16 excluding NW/4, N/2 NE/4, SW/4 NE/4; Sec. 17 excluding NE/4 NE/4; Secs. 18–36–comprising approx. 16,560 acres.

1—T. 7 N., R 10 W.: Secs. 1–5; 7–25; Sec. 26 excluding W1/2 SW1/4; Sec. 27 excluding S1/2 N1/2; Sec. 28 excluding S1/2 NE1/4, SE1/4, E1/2 SW1/4; Secs. 29–32; Sec. 35 excluding W1/2, S36 comprising approx. 19,920 acres.

2—T. 6 N., R 10 W.: Sec. 1; Sec. 2 excluding W/2 NW/4; Sec. 4 excluding N/2, SE/4, E/2 SW/4; Sec. 5–8; Sec. 9 excluding N/2 NE/4; Sec. 12; 16–17; 20–21–comprising approx. 7,600 acres.

4—T. 7 N., R 11 W., Sec. 23–26; 35; 36–comprising approx. 3,840 acres.

3—T. 6 N., R 11 W., Sec. 1–2; 11–14–comprising approx. 3,840 acres.

3—T. 10 N., R 7 W., Sec. 19–21; 28 (N/2); 29–32–comprising approx. 4,800 acres.

*These lands total approximately 82,080 acres (128 townships). Any unselected portions of the above described lands shall be first priority selection for in-lieu selections from Appendix B-2 below.

Up to 138,240 acres (6.0 townships) of specified mineral in lieu estate to be selected from the following described lands by priority ranking and in the order listed.

Priority

2—T. 9 N., R 9 W.: Sec. 13; 23 excluding SE/4 SE/4; Sec. 24 excluding W/2 SE/4, SW/4; Sec. 25 excluding W/2 E/2, W/2; Sec. 26 excluding E/2 E/2; Sec. 27; Sec. 31 E/2; Sec. 32–35; Sec. 36 excluding W/2 NE/4, NW/4, and N/2 SW/4–comprising approx. 6,120 acres.

3—T. 9 N., R 8 W.: Sec. 1–5; 7–36–comprising approx. 22,400 acres.

2—T. 6 N., R 9 W.: Sec. 1–17; 20–29; 34–36–comprising approx. 19,200 acres.

3—T. 8 N., R 8 W.: All-comprising approx. 23,040 acres.

2—T. 4 N., R 10 W.: Sec. 9–10; 13–36–comprising approx. 16,640 acres.

2—T. 4 N., R 11 W.: Sec. 25; 36-comprising approx. 1,280 acres.

3—T. 1 N., R 11 W.: Sec. 17 (E/2); Sec. 21–28; Sec. 33–36–comprising approx. 6,720 acres.

3—T. 3 N., R 11 W.: Sec. 1; 12–15; 22–27; 34–35–comprising approx. 8,320 acres.

3—T. 8 N., R 10 W.: Sec. 1–30–comprising approx. 19,200 acres.

3—T. 4 N., R 9 W.: Sec. 2 excluding SE/4; 3–10; 11 excluding E/2; Sec. 14 excluding E/2; 15–20; 21 excluding SE/4; 29–34–comprising approx. 12,480 acres.

APPENDIX C

If CIRI has on or before January 12, 1976 presented evidence satisfactory to the State that the villages of Kink, Chickaloon, Alexander Creek, Tyonilchik and Salamatof have withdrawn selection applications for and relinquished all claims to land in the Lake Clark, Lake Kontrashibuna and Malchatna River areas, the State shall convey under paragraph 11 of this document to the United States for reconveyance to CIRI all of the state lands identified or to be identified in this Appendix C. All conveyances of lands made in accord with this document shall pass all of the State's right, title and interest in the lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway or other rights-of-way may be reserved to the State.

1. Acreage from each of the five pools identified in this paragraph in the amounts therein set forth. Out of each such pool, the identity of the required acreage shall be determined to the extent possible by mutual agreement of the State and CIRI. For so many of the required acres as have not been so determined by agreement in each pool within eighteen months following implementation of this document, those remaining required acres shall be identified by CIRI's selecting acreage in that remaining amount from an array of 1½ that many acres within the pool, said array to be identified to CIRI by the State.

A. *Point McKenzie.*—3,200 acres must be identified from state lands within the following areas:

T 15 N, R3 W through 5W, S.M.
T 14 N, R4 W through 5W, S.M.
T13 N, R4 W S.M. (North of Knik Arm)

B. *Knik-Willow Pool.*—4,480 acres must be identified from state-lands within the following areas:

T 16 N through 18 N. R 2W through 5W, S.M.

C. *Kashwitna Pool.*-38,040 acres must be identified from state-lands within the following areas:

T 21 N through 25N, R3 and 4W, S.M. (or other nearby lands).

D. *Chickaloon Pool.* 4,480 acres must be identified from state lands within the following areas:

T 19 N, R3 E through 5E, S.M.
T 20 N, R4 E through 7E, S.M.

E. *Kenai Pool.*—115,200 acres must be identified from state lands on the Kenai Peninsula.

Provided however that the State may with CIRI's concurrence supplant acreage otherwise to be identified from the Kenai pool in subparagraph E on an acre-for-acre basis with lands near Alexander Creek, Nimilchik or Salamatof. Supplanting lands near any one of these villages may not exceed in acreage that number of acres to which the State is obligated under paragraph 3 to provide in respect of each of those three villages.

2.(a) Thirteen and one-half townships of lands in the Beluga Area [illegible] ships listed in this paragraph. The identity of those lands shall [illegible] determined by CIRI within eighteen months following the implementaiton of this document by nomination of compact units no less than ¼ township in size lying along township lines, provided that where constrained by selection pool boundaries or water bodies they may be smaller; *Provided*, However that if Tyonek Corporation desires to trade the surface estate it holds in the Kenai National Moose Range for State surface lands within the vicinity of its village lands but within CIRI's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRI's selection pool lands, CIRI shall select an equivalent acreage of other surface estate from within its selection pool.

T. 16 N., R. 14 W., S.M.;
T. 16 N., R. 13 W., S.M.;
T. 16 N., R. 12 W., S.M., Secs. 7, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;
T. 16 N., R. 11 W., S.M., Secs. 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;
T. 15 N., R. 14 W., S.M.;
T. 15 N., R. 13 W., S.M.;
T. 15 N., R. 12 W., S.M.;
T. 15 N., R. 11 W., S.M.;
T. 15 N., R. 10 W., S.M., W½, excluding Sec. 4;
T. 14 N., R. 15 W., S.M.;
T. 14 N., R. 14 W., S.M.;
T. 14 N., R. 13 W., S.M., W½;
T. 14 N., R. 11 W., S.M.;

T. 14 N., R. 10 W., S.M., W½;
T. 13 N., R. 15 W., S.M.;
T. 13 N., R. 14 W., S.M.;
T. 13 N., R. 10 W., S.M., E½ excluding lands east of the west bank of the Beluga River;
T. 12 N., R. 15 W., S.M.;
T. 12 N., R. 14 W., S.M., excluding Secs. 23, 24, 25, 26, 29, 31, 32, 33, 36;
T. 12 N., R. 10 W., S.M.;
T. 11 N., R. 13 W., S.M., Secs. 12, 13 excluding W½SW¼; 24 NE/4 NE/4.
T. 11 N., R. 12 W., S.M., Secs. 18, 19 excluding SW¼, S½ SE/4; 20.

(b) Provided, However, that the following described lands shall *not* be available for CIRI's selection of *subsurface* estate:

Beluga

T. 13 N., R. 10 W., S.M., Secs. 11, E-½; 12, 13, 14, 22, 23, 24, 25, 26, 27, 34, 35, 36.
T. 12 N., R. 10 W., S.M., Secs. 2, 3 4, 5, 8, 9, 10.

Nicolaick

T. 11 N., R. 12 W., S.M., Secs. 16, SW-¼; 17, SW-½; 18, SE-¼; 19, E-½, E-½ W-½; 20; 21, W-½; 28, W-½; 29, 30, 31, 32.

(c) The State shall provide a floating, public, 300 foot wide transportation easement from T. 13 N., R. 14 W., S.M. to the shore of Cook Inlet in T. 11 N., R. 12 W., S.M. Said easement to be determined upon the ground at such future time as a need exists and there are adequate field data available upon which the State may finally plan and locate the corridor.

3. Lands in an amount equal to ¼ of the acres to which each of the villages of Knik, Chickaloon, Alexander Creek, Nimilchik, and Salamsatof are or would be entitled under ANCSA Sec. 12(a), under selection applications on file with the BLM as of July 18, 1975, in the Lake Clark, Lake Kartrashibuna and Mulchatna River areas. Each acre identified for conveyance by the State hereunder must be located within or near the 11(a)(1) withdrawal of the village to which the displaced ANCSA acreage to which that acre corresponds would otherwise have passed under ANCSA. The lands so identified in respect to displaced acres attributable to Alexander Creek and Salamstof shall be conveyed by the State if and only if the village to which the displaced acres are attributable retains its village eligibility status under ANCSA.

Appendix D

Lands in the Lake Iliamna Area and in the Nushagak River and Lake Clark Drainages

Paragraph III(A)(1))

I. The Secretary shall convey to the State at least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settle-

ment Act in the Lake Iliamna area and within the Nushagak River or Lake Clark drainages near lands heretofore selected by the State.

II. The following townships shall be conveyed to the State as part of the minimum of 22.8 townships to be conveyed to the State from lands identified in paragraph I.

T 4N, R 36 W, S.M.
T 3N, R 36 W, S.M.
T 2N, R 36 W, S.M.
T 1N, R 36 W, S.M.
T 1S, R 37 and 38 W, S.M.
T 2S, R 37 and 38 W, S.M.
T 3S, R 37 and 38 W, S.M.
T 4S, R 37–39 W, S.M.
T 5S, R 40–42 W, S.M.
T 6S, R 40 W, S.M. (except sections 21–28, 33–36).
T 6S, R 41 and 42 W, S.M.
T 7S, R 42 W, S.M. (secs. 3–10, 15–18).

III. For each acre of valid village 12(a) selections relinquished in the Lake Clark, Lake Kontrash/buna and Mulchatna River areas pursuant to paragraph II of the document to which this forms an Appendix, the Secretary shall convey to the State, on an acre for acre basis, lands from within the 17(d)(2) area described in Paragraph I up to a total of 4.2 townships.

IV. To the extent that lands to be conveyed to the State pursuant to Paragraphs II and III above are not specifically identified in this Appendix, they shall be identified by mutual consent of the State and the Secretary from lands described in Paragraph I within 60 days of the date the State becomes bound to this document, or within 60 days of the date that any entitlement vests in the State pursuant to Paragraph III of this Appendix, whichever shall come first.

V. All lands granted to the State of Alaska pursuant to this Appendix D shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

Appendix E

Lands in the Talkeetna Mountains, Kamishak Bay and Tetna Lakes Areas

(Paragraph III(A)(2))

The Secretary shall convey to the State the following described lands, subject to valid village selections under section 12(a), but not 12(b), of ANCSA.

T 22N, R 2W, S.M.
T 23N, R 2W, S.M.
T 24N, R 1 and 2 W, S.M.
T 26N, R 1 and 2 W, S.M.
T 27N, R 2W, S.M.

T 29N, R 2W, S.M.
T 7S, R 26W, S.M. secs. 29-31
T 7S, R 27–29 W, S.M.
T 8S, R 26–29 W, S.M.
T 9S, R 26–30W, S.M.
T 10S, R 28–30 W, S.M.
T 11S, R 28–30 W, S.M.
T 4N, R 33–35 W, S.M.
T 3N, R 34 and 35 W, S.M.
T 2N, R 34 and 35 W, S.M.

Appendix F

Far North Bicentennial Park

(Paragraph III B)

T 12 N, R 3 W, S.M.:
Section 1.
Section 2.
Section 3 (except SW ¼).
Section 10 (except S ½).
Section 11 (except S ½).
Section 12.

T 13 N, R 3 W, S.M.:
Section 34 (except N ½ NE ¼ NE ¼)
Section 35 (except NW ¼ NW ¼, N ½ SW ¼ NE ¼ NE ¼)
Section 36 (except NE ¼ SE ¼ SE ¼ NE ¼)

Appendix G

Talkeetna Mountains—Koksetna River Lands

(Paragraph III (c))

The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described below.

T 4N, R 31 W, S.M. (W ½).
T 4N, R 32 W, S.M.
T 3N, R 31 W, S.M. (W ½).
T 3N, R 32 and 33 W, S.M.
T 2N, R 31–33 W, S.M.

Subject to valid village 12(a) and 12(b) selections under ANCSA, the following lands located south of the Susitna River:

T 29N, R 11E—1 W, S.M.
T 30N, R 11E—2 W, S.M.
T 31N, R 9E—1 W, S.M.

Edwardsen v. *Morton*

During the Subcommittee hearings H.R. 6644, the Committee was made aware of an issue which may have long-range significance for the Native land claims settlement contained in the Settlement Act.

This issue concerns the decision in the case of *Edwardsen* v. *Morton* (369 F. Supp. 1359), 1973. The Settlement Act had as its principal purpose the provision of a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." (Section 2(a)). On April 19, 1973, Judge Oliver Gasch, the District Court for the District of Columbia, in ruling on a motion by the defendants for summary judgment in *Edwardsen*, held if the Native plaintiffs of the Arctic Slope of Alaska "were in fact disturbed in their use and occupancy by trespassers, i.e., by any parties coming onto the land except for those entering under Congressional authorization, then there accrued a cause of action in tort against the trespassers and a cause of action for trespass and breach of fiduciary duty against Federal officers authorizing such trespass." 369 F. Supp. at 1378–1379. The Court continued, "It is not at all clear that the Settlement Act bars litigation of plaintiffs' claims relating to the alleged trespasses even though they are linked to claims of aboriginal title. * * * In any event, a construction of (the Act's provisions) to bar claims relating to pre-Settlement Act trespasses would appear to create constitutional infirmities in the Act which are better avoided if a constitutionally sound construction does not violate clearly expressed legislative intent." 369 F. Supp. at 1379. Accordingly, Judge Gasch refused to hold "that a later Act of Congress [Settlement Act] could wipe out all claims against any person * * * simply because Congress has decided to extinguish aboriginal title." Id.

Pursuant to a stipulation entered into by the parties in August of 1974, and approved by the Court in October, 1974, further proceedings in the *Edwardsen* case were held in abeyance pending an investigation by the Department of the Interior of the extent of the trespass claims involved. That investigation has been completed and the United States, acting as trustee for the Natives involved, has filed suit in the United States District Court for the District of Alaska against several corporate and individual defendants, including the State of Alaska, for damages arising from such trespasses.

It is not clear just what impact a final decision upholding the *Edwardsen* ruling might have on the Settlement Act and the orderly development of the State of Alaska. As a consequence, the Committee determined not to deal with that critical issue in H.R. 6644. This decision should not be interpreted to mean that the Committee finds the ruling to be either correct or incorrect with respect to the congressional intent in barring or not barring such claims. At this point, that is a judicial matter.

However, the Committee intends to follow the course of this litigation and the impact that it has or may have on the Settlement Act and the development of lands and resources in Alaska. Should circumstances warrant, the Committee then will consider the matter further.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 94-729

PROVIDING, UNDER OR BY AMENDENT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, FOR THE LATE ENROLLMENT OF CERTAIN NATIVES, THE ESTABLISHMENT OF AN ESCROW ACCOUNT FOR THE PROCEEDS OF CERTAIN LANDS, THE TREATMENT OF CERTAIN PAYMENTS AND GRANTS, AND THE CONSOLIDATION OF EXISTING REGIONAL CORPORATIONS, AND FOR OTHER PURPOSES

December 15, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6644]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6644) To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native village", as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group", as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any "Native group", as defined in such Act shall not lose its status as a Native group because of any enrollment pursuant to this Act.

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as village corporations under section 11 of Alaska Native Claims Settlement Act and which are included within the boundaries of former reserves who elected to receive surface and subsurface entitlement pursuant to subsection 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(h)

or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided*, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act.

(c) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, the minimum number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided*, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native Corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further*, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: *Provided further*, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further*, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such reexamination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.

SEC. 2. (a) From and after the date of enactment of this Act; or January 1, 1976, whichever occurs first, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements, issued pursuant to section 14(g) of the Settlement Act, pertaining to land or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under such Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, right-of-way, or easements, pertaining to lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to such Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as would have been required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 ([illegible] 162a): *Provided further*, That this section shall not be construed to terminate any trust relationship between the United States and any [illegible] or individual entitled to receive benefits under the Settlement Act.

(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Settlement Act, from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act.

SEC. 3. The Settlement Act is amended by adding at the end thereof the following new section:

"SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.".

SEC. 4. The Settlement Act is further amended by adding at the end thereof the following new section:

"SEC. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.".

SEC. 5. For purposes of the first section of the Act of February 12, 1929 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

SEC. 6. The Settlement Act is further amended by adding a new section 30 to read as follows:

"SEC. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders

which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 10(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

SEC. 7. Section 17(a)(10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.".

SEC. 8. (a) Notwithstanding the October 6, 1975 Order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. v. Rogers C. B. Morton et al., Civil Action No. 2133-73, and Alaska Federation of Natives, International, Inc., et al. v. Rogers C. B. Morton, et al., Civil Action No. 2141-73 (F. Suppl.), changes in enrollment of Alaska Natives which are necessitated or permitted by such Order shall in no way affect land selection entitlements of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

(b) Stock previously issued by any of the twelve Alaska Native Regional Corporations or by Alaska Native Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said Order shall, upon said enrollment, be cancelled by the issuing corporation without liability to it or the Native whose stock is so cancelled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said Order shall elect to re-enroll in the appropriate Alaska Regional Corporation pursuant to the sixth ordering paragraph of that Order, stock of such Native may be cancelled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Alaska Regional Corporation without liability to either corporation or to the Native.

(c) In the event section 5(a) of the Settlement Act is amended to re-open the Alaska Native Roll for additional enrollment, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to such Act shall, at the time of enrollment elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of the Settlement Act and such election shall apply to all dependent members of such Natives' household who are less than eighteen years of age on the date of such election.

(d) No change in the final roll of Alaska Natives established by the Secretary pursuant to Section 5 of the Settlement Act resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Alaska Natives shall affect land entitlements of any regional or village corporation or any Native village or group eligibility.

SEC. 9. Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection.".

SEC. 10. Section 16(b) of the Settlement Act is amended by adding at the end thereof the following: "Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.".

SEC. 11. Section 7(a) of the Settlement Act is amended by changing the period at the end thereof to a colon and adding the following: "*Provided*, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided further*, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreasonably or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.".

SEC. 12. Cook Inlet Settlement. (a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region, Incorporated ("Region" hereinafter), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

(1) The State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

(2) The Region and all plaintiffs/appellants have withdrawn from Cook Inlet v. Kleppe, No. 75-2232, 9th Circuit, and such proceedings have been dismissed with prejudice; and

MOOSE RANGE, SWANSON RIVER

(3) All Native village selections under section 12 of the Alaska Native Claims Settlement Act of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area," which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, the terms of which are hereby ratified as to the duties and obligations of the United States set forth therein:

(1) Approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the water-front zone described in the document referred to in this subsection.

(2) Title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

(3) Federal interests in townships 10 South, Range 9 West, F.M., and township 20 North, Range 9 East, S.M.;

(4) Township 1 South, Range 21 West., S.M.; secs. 3-10, 15-22, 29 and 30; and rights to metalliferous minerals in the following sections in township 1 North, Range 21 West, S.M.: secs. 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36;

(5) Twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region; unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement:

(6) Lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(1) of the Alaska Native Claims Settlement Act: *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the Range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the Range with the concurrence of the owner. Section 22(c) of the Alaska Native Claims Settlement Act, concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land without restriction to a native corporation.

No lands outside the exterior boundaries of Cook Inlet Region shall be conveyed to Cook Inlet Region, Inc., unless, in the following circumstances, the consent of other Native Corporations is obtained:

I. Where the township to be nominated is located within an area withdrawn as of December 15, 1975, pursuant to Section 11(a)(1) CIRI shall obtain the consent of the Region and Village Corporation affected.

II. Where the township to be nominated is located within an area withdrawn pursuant to Section 11(a)(3) as of December 15, 1975, CIRI shall obtain the consent of the Region in which the township is located.

There shall be established a buffer zone outside the withdrawals described in subparagraphs I and II which zone shall extend one township from any such Section 11(a)(3) withdrawal and one and one-half townships from any Section 11(a)(1). Any nomination of a township within such zone shall be subject to

the consent of the Region, or of the Village Corporation if adjacent to a Section 11(a)(1) withdrawal, provided, however, that the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Region shall designate the enlarged buffer zone, if any, no later than six months following the passage of this act. Any use or development by Cook Inlet Region, Inc., of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Alaska Native Claims Settlement Act unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act. Of such lands, 3.5 townships of subsurface in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Alaska Native Claims Settlement Act would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any regional corporation or village corporation, notwithstanding any provisions of the Alaska Native Claims Settlement Act to the contrary.

(d)(1) The Secretary shall convey to the State of Alaska, all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Illiamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in the document referred to in subsection (b) except for one compact unit of land which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974: *Provided*, That if the land is not used for the above purposes it shall revert to the United States. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act: *Provided, however*, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this para-

graph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Kokasena River areas as described in the document referred to in subsection (b).

(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act.

(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

(g) The Secretary through the National Park Service, shall provide financial assistance, not to exceed $25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land-use plan for the West side of Cook Inlet, including an analysis of alternative uses of such lands.

(h) Village corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Alaska Native Claims Settlement Act, notwithstanding any provision of that act to the contrary.

(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.

SEC. 13. Section 21 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby amended by adding the following subsection at the end thereof:

"(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.".

SEC. 14. (a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

(1) Arctic Village;
(2) Elim;
(3) Gambell;
(4) Savoonga
(5) Tetlin; and
(6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.

SEC. 15(a). The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public

Land Order 5397 for identification for selection by it located in the following described area:

T 36 S, R 52 W
T 37 S, R 51 W
T 37 S, R 52 W
T 37 S, R 53 W, sec. 1–4, 9–12, 13–16, 21–24, north ½ of 25–28
T 38 S, R 51 W, sec. 1–5, 9, 10, 12, 13, 18, 24, 25
T 38 S, R 52 W, sec. 1–35
T 38 S, R 53 W, sec. 1, 12, 13, 24, 25, 36
T 39 S, R 51 W, sec. 6, 7, 16–21, 28–33
T 39 S, R 52 W, sec. 1, 2, 11, 12, 13–16, 21–24
T 39 S, R 53 W, sec. 26, 33–36
T 40 S, R 52 W, sec. 6, 7, 8, 9, 16, 17, 18–21, 27–36
T 40 S, R 53 W, all except sec. 20, 29–33
T 40 S, R 54 W, all except sec. 35 & 36
T 41 S, R 52 W, sec. 4, 8–15
T 41 S, R 54 W, sec. 3
T 41 S, R 53 W, sec. 1, 2, 11, 12, 13

Notwithstanding the withdrawal of such lands by Public Land Order 5179 as amended, pursuant to section 17(d)(2) of the Settlement Act: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

The United States shall make available to Koniag, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect.

(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(e) of the Settlement Act, shall not be available for selection by Koniag Region, Incorporated.

SEC. 16. Within ninety (90) days after the date of enactment of this Act, the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands:

COPPER RIVER MERIDIAN

Township	Range	Section
9 S	3 E	23, 26, 34–35.
9 S	3 E	2–27, 34–36.
1 S	4 E	5, 6, 8, 9, 16, 17, 20–22, 27–29, 33–36.
9 S	3 E	3–6, 9–11.
9 S	3 E	14–16, 21, 22, 27, 28.

The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to Section 12(a) or 12(b) of the Alaska Native Claims Settlement Act (85 Stat. 688) and were withdrawn pursuant to Section 11 of that Act.

The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forests system. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to Section 14(f) of the Alaska Native Claims Settlement Act.

SEC. 17. Section 22(f) of the Alaska Native Claims Settlement Act is amended to provide as follows:

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations, for the Cities of Juneau, Sitka, Kodiak and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: *Provided*, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

SEC. 18. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PURPOSE

The purpose of H.R. 6644, introduced by Mr. Young of Alaska, is to amend and supplement, in certain respects, the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688). Among other things, the bill as introduced, would accomplish the following:

The roll of Alaska Natives would be reopened for one year from date of enactment to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline established by the Secretary of the Interior. No changes in land selection rights pursuant to the Settlement Act would occur as a result of the new enrollment process. (Sec. 1(a)).

The Secretary would be required to redetermine the place of residence of Natives who had enrolled in Native "villages" or "groups", as defined in the Settlement Act for purposes of receiving benefits, which villages or groups have subsequently been found ineligible. Prior distribution of benefits and land entitlements under the Act would not be affected (Sec. 1(c)).

Natives who reside on lands of, but are not members of, village(s) which elected to retain their former reservations under section 19(b) of the Act are given the opportunity to enroll to such village corporations. (Sec. 1(b)).

The Secretary is directed to establish an escrow account in which are to be deposited funds earned on lands withdrawn for Native selection pending issuance of patents thereon. Interest will be earned on such account and it will be paid out as interests appear upon issuance of final patents to the Native corporations. (Sec. 2).

Native corporations would be exempt from the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 until December 31, 1991. (Sec. 3).

Clarification is made that (1) payments and grants to Natives under the Act are not to be deemed as a substitute for any government programs Natives otherwise would be eligible for as citizens and that (2) benefits received by Natives under the Act are not to be counted as income or other resources for purposes of the Food Stamp program. (Sec. 4).

Money, in the Alaska Native Fund, pending distribution, is to be

treated as trust funds of Indian tribes for interest and investment purposes. (Sec. 5).

Mergers of Native village corporations which are too small to be economically viable with other village corporations or with the regional corporation would be permitted under certain conditions. (Sec. 6).

The life of the Joint Federal-State Land Use Planning Commission is extended three years until June 30, 1979. (Sec. 7).

The decision of the village of Klukwan to retain their former reservation under section 19(b) of the Settlement Act rather than share in the benefits of the Act resulted in a severe inequity to some of its members because of a prior valid right to the lands of such reservation. This inequity is corrected by, in effect, vitiating such election and allowing Klukwan to share in the Act's land benefits. (Sec. 9).

The Regional Native Corporation of the southeastern region (Sealaska, Inc.) is given authority to select its land entitlement under section 14(h)(8) of the Act from lands withdrawn for, but not selected by, village corporations of that region. (Sec. 10).

The boundary between the southeastern Native region and the Chugach region is confirmed at the 141st meridian. (Sec. 11).

The severe land selection problem encountered by the Cook Inlet Native region in securing its land entitlement under the Act is resolved by providing for certain conveyance of lands to the regional corporation from the U.S. and the State of Alaska. (Sec. 12).

The value of share of stock in Native corporations and the right to receive dividends therefrom are excluded from the gross estate of a Native shareholder for Internal Revenue Code purposes. (Sec. 13).

Grants of $250,000 each are authorized for the Native corporations of Juneau, Sitka, Kodiak, and Kenai and $100,000 each for the villages of Artic Village, Elim, Gambell, Savoonga, Tatlin, and Venetie for planning, development and other purposes for which these corporations were organized. (Sec. 14).

The Koniag Native regional corporation is conveyed title to approximately 186,000 acres of subsurface estate in lands which lands are proposed for inclusion in the Aniakchak Caldera National Monument. (Sec. 15).

Background

On December 18, 1971, the President signed into law the Alaska Native Claims Settlement Act (the Settlement Act), Public Law 92-203, 85 Stat. 688. This legislation extinguished all aboriginal claims to land in Alaska and in return provided the Natives (individually and through 12 Regional Corporations and approximately 220 Village Corporations established under the law's provisions) with a land settlement of approximately 40 million acres and a monetary settlement of nearly a billion dollars ($462,500,000) from the general fund of the Treasury, and $500 million from mineral revenues from lands in Alaska conveyed to the State under the Statehood Act after the enactment of the Settlement Act and from the remaining Federal lands, except Naval Petroleum Reserve No. 4).

Organization

The Act provided that, within 2 years from the date of enactment, the Secretary of the Interior was to prepare a roll of all Natives who

were born on or before, and who were living on, the date of enactment. Within one year of enactment, the Secretary was required to divide the State of Alaska into 12 geographic regions for purposes of the Settlement Act. The Natives of each region were authorized to establish a Regional Corporation to conduct business for profit under the laws of Alaska, and all 12 Regional Corporations have been organized. The Act also listed 217 villages, the members of which were to establish profit or non-profit Village Corporations. The Secretary was required to review the listed village within 2½ years of enactment, disqualify those that do not meet the Act's criteria, and add those which do meet the criteria but were not listed in the Act. Some 220 Village Corporations have been established.

The Act also revoked existing Native reserves and authorized the Native Village Corporations formed on each reserve to elect to take either title to the reserve lands or the benefits of the Settlement Act. Native groups which were not eligible as villages were also asked to incorporate. Finally, the Natives of four urban centers in which the Native population constitutes a minority (Sitka, Kenai, Juneau, and Kodiak) were also expected to incorporate.

The Corporations are to issue stock to their members, however such stock is inalienable for a period of 20 years.

The Land

To permit the Regional and Village Corporations to select 38 million acres, the Act requires the Secretary to withdraw approximately 25 townships around each Native village listed in section 11 and, in case of insufficient lands within that area, withdraw nearby lands equal to three times the deficiency. The Secretary was authorized to withdraw and convey an additional 2 million acres outside the otherwise withdrawn areas for specific purposes: cemetery sites and historic places; not more than 23,040 acres for each Native group which does not qualify as a Native village; not more than 23,040 acres for each of the Native Corporations in four urban centers the populations of which are no longer composed predominantly of Natives (Sitka, Kenai, Juneau, and Kodiak); and not more than 160 acres for each Native living outside the otherwise withdrawn areas.

Of these withdrawn lands, the Village Corporations are to receive title to 22 million acres of surface estate only: 18½ million acres of surface estate in the 25 township areas surrounding each Village, divided among the villages according to population, and 3½ million acres of surface estate, divided among the Village Corporations in 11 regions (excluding the southeastern region, Sealaska) by the Regional Corporations on an equitable basis after considering historic use, subsistence needs, and population. The deadline for selection of lands by the Village Corporations was December 18, 1974.

The 12 Regional Corporations are to receive the subsurface estate in the 22 million acres patented to the Village Corporations, and the full title to 16 million acres selected within the 25 township areas surrounding the villages. This land would be divided among the 12 Regional Corporations on the basis of land areas within each region. The Regional Corporations would also receive the subsurface estate

of land selected by Native groups (one township, 23,040 acres, each), individual Natives residing outside villages (160 acres each), and the Native Corporations for Sitka, Kenai, Juneau, and Kodiak (23,404 acres each). The balance remaining from the two million acres withdrawn for the group, individual, and town selections after selection is made is also to go to the Regional Corporation. Finally, Regional Corporations would be conveyed cemetery and historical sites. The deadline for Regional Corporation land selections is December 18, 1975.

The Funds

The Act established in the Treasury an Alaska Native Fund into which is to be paid $462,500,000 in Federal funds over an 11-year period and a 2% overriding royalty from all proceeds received from the disposition of minerals subject to the Mineral Leasing Act in Alaska from both Federal (other than Naval Petroleum Reserve No. 4) and State lands until an additional sum of $500,000,000 is reached.

The Regional Corporations would receive all payments on a quarterly basis as funds are made available on passage of appropriations acts. The payments are divided among the regions on the basis of Native population. The Regional Corporations must also divide among themselves 70 percent of the mineral and timber revenues received by them from lands conveyed to them. Each Regional Corporation must then distribute to the Village Corporations and the class of stockholders who are not residents of these villages not less than 50 percent (45% during the first five years) of the funds granted to it and all timber and mineral revenues from its lands. During the first five years, not less than 10% of all corporate funds from the two above-mentioned sources are to be distributed by the Regional Corporations among their stockholders.

With some minor exceptions, the land and moneys received under the settlement are not taxable at time of receipt.

Explanation

The Alaska Native Claims Settlement Act is a very complicated, far-ranging law. It was the subject of exhaustive congressional hearings, consideration and debate. The final product represents a delicate balancing of the myriad of interests within the State of Alaska and the Nation as a whole.

The primary purpose of the Act was to finally settle the long-standing land claims of the Alaska Natives in a fair, expeditious manner. In addition, however, the Act attempted to secure the interests of the public at large preserving the unique status and value of certain lands in the State, in providing for the orderly development of the resources of Alaska, and in preserving the ecological and environmental balance on this land.

The Act also sought to permit the development of the vast energy potential of the State to aid in meeting the growing energy shortages of the Nation while meeting the needs of the Natives and of the public at large.

In light of the many issues and circumstances which the Act attempted to meet and equitably resolve, it is little wonder that

experience in the implementation of the Act has disclosed some deficiencies and oversights on the legislation. This is particularly true with respect to insuring that the Native beneficiaries of the Act obtained the rights to which they were entitled.

The Committee, in the exercise of its oversight responsibilities and in extensive hearings on the Settlement Act has identified several pressing deficiencies in the Act and resultant inequities which require legislative remedy. H.R. 6644, as amended, will provide that remedy.

Section-By-Section Analysis

SECTION 1

Subsection (a) of the bill authorizes the Secretary of the Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973 deadline for filing applications for enrollment as Alaska Natives. The Secretary would then enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline.

In addition, section 1(a) sets forth the procedures for making all the changes required by amendments to the roll resulting from the new enrollments thereunder, specifically with regard to issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Also, the subsection provides that no land entitlements of "village" or "group" eligibility will be affected by the changes in enrollment thereunder.

Some 77,000 Alaska Natives filed timely enrollment applications and were included on the final roll certified by the Secretary of the Interior on December 18, 1973. However, approximately 800 applicants filed after the March 30, 1973 deadline. There applications were summarily denied. In addition, numerous other Natives were dissuaded from filing upon learning that the deadline had passed. Further, because of the remoteness and isolation of Native settlements in Alaska, the subsistence hunting and fishing culture of many Natives, and the wide dispersion of other Natives throughout the United States and foreign countries, many Natives did not receive timely notice about the enrollment process.

This new enrollment period will afford these Natives the opportunity to share in the benefits Congress intended for them. While there is no accurate count of eligible Natives who missed enrollment, estimates indicate that the number would be greater than 1,000.

Subsection 1(b) provides that the Secretary is authorized to poll Natives enrolled to villages or groups not recognized as village corporations under the Settlement Act and which are located within the boundaries of former reserves where village corporations elected surface and subsurface rights under section 19(b) of the Settlement Act. The Secretary may allow these natives to enroll to a section 19(b) village corporation or to remain enrolled on an at-large basis in the Regional Corporation of the region in which the village or group is located.

Although the language of the provisions is general and would apply to any case falling within its terms, the provision is specifically

directed toward an inequitable situation identified by the Committee on the Island of St. Lawrence. The villages of Gambell and Savoonga elected to retain and take title to their former reservation pursuant to section 19 of the Settlement Act. That former reservation constituted the entire Island.

Approximately 30 Natives who live on the Island enrolled to places other than Gambell or Savoonga. Since all the land was taken by the two villages as the former reserve, these Natives cannot realistically obtain land benefits as a Native group. The subsection will correct this and other such inequitable and unintended results of the Settlement Act.

The Committee adopted an amendment which makes clear that no enrollment changes resulting from subsection (c) will affect any land entitlements under section 12(b) or 14 (h)(8) of the Settlement Act. The Committee does not intend that the addition of the proviso be taken to be a congressional determination that any such enrollment change might or might not otherwise affect such entitlements.

Section 1(c) provides that, in those cases where, under the enrollment provisions of the Settlement Act, there were enrolled as residents of a place the minimum number of Natives necessary to qualify as a Native village or group and where it is later determined by the Secretary that such place is not eligible for land benefits as a village or group on grounds which include an insufficient number of residents, the Secretary is required to redetermine the place of residence of such Native as of April 1, 1970, and to enroll such Native in the appropriate Native corporation or corporations.

The subsection maintains existing or past distributions of funds or land entitlements under the Settlement Act notwithstanding such redetermination of residence. In addition, it affords an opportunity for notice and a hearing for those Natives whose residence is being redetermined and for those Native corporations gaining or losing stockholders.

SECTION 2

Section 2 contains provisions to correct ambiguities which have arisen during the implementation of the Settlement Act concerning the distribution of certain receipts and proceeds.

Subsection (a) provides the Secretary of the Interior with authority to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to land or resources of land withdrawn for Native selection pursuant to the Settlement Act in an escrow account until such time as disposition is made of the land and then to transfer the receipts to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected are to be paid out as required under law. Subsection 2(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (52 Stat. 1037, 25 U.S.C. 162(a)).

Despite the stricture provided in section 14(a) of the Settlement Act that patents to lands selected by Native corporations are to be conveyed "immediately after selection," delays between the selection of land by a Native corporation and the transfer of title to that corporation are unfortunately likely to occur. Several reasons for such delays, such as the absence of an easement policy, probably will be eliminated in the near future. Others are likely to continue for the duration of the Native land selection process, in that the Bureau of Land Management appears to lack the manpower and money necessary to process expeditiously the hundreds of selection applications which it has or will soon receive from the twelve Regional Corporations and the approximately 220 Village Corporations which have qualified for benefits under the Settlement Act.

Under existing law, any funds derived from lands owned by the Federal government must be deposited in the Treasury or other appropriate depository until title passes, despite the fact that such lands may have been selected by a Native corporation. Therefore, in the absence of section 2 of H.R. 6644, no authority exists to establish an escrow fund on behalf of the Native corporations. Accordingly, these corporations could be deprived of a significant asset which they would be entitled to receive but for the existence of problems beyond their control—delays in conveying the selected land and lack of authority to protect Native proceeds in the interim. The Settlement Act vests the Secretary of the Interior with interim authority to grant leases, contracts, permits, rights-of-way, and easements on Native lands. In a growing number of situations, Native corporations have wanted the Secretary to enter into one of these arrangements, but have been forced to abandon their plans due to the lack of escrow authority.

Subsection (c) relates to public easements reserved in any conveyance pursuant to section 17(b)(3) of the Settlement Act. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation would have been made in the conveyance, section 2 would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued will be paid to the grantee of such conveyance in accordance with the grantee's proportionate share. The Department of the Interior believes it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation without the certainty provided by section 2.

Subsection (d) provides that, where there is a conflict between the provisions of this section and other Federal law applicable to Alaska, this section will prevail. In addition, it provides that payments made to any corporation or individual from the escrow account shall not be considered revenue for purposes of the mineral revenue sharing section 6(d) and (f) of the Settlement Act.

SECTION 3

Section 3 adds a new section 28 to the Settlement Act which exempts Native corporations organized under that Act from the provisions of certain federal securities laws during the time that the stock of those

corporations is subject to prohibitions on sale or disposition, i.e. December 31, 1991.

A. The Investment Company Act of 1940

The exemption is necessary because of certain "mechanical" provisions of the Investment Company Act and the present uncertain status under the 1940 Act of Native corporations established pursuant to the Settlement Act. The 1940 Act requires highly technical registration and periodic reports to the Securities Exchange Commission (SEC) from corporations which are by design "investment companies" as well as corporations which are deemed "inadvertent" investment companies because more than 40 percent of their total assets, exclusive of cash and government securities, are held in the form of "investment securities."

The Native corporations are designed to be operating profitmaking business corporations. They are not expected to be "investment companies" as that term is customarily used. All of them will eventually own surface and/or subsurface interests in substantial amounts of land. Once the corporations are fully organized it is apparent that many of them will never be "investment companies" by virtue of their intentional business decisions or because they happen to have more than 40 percent of their non-cash assets in investment securities. The probable value of certain land interests makes it unlikely that several of these corporations will ultimately fall under the 1940 Act because of the 40 percent test.

The structure of the Settlement Act results, however, in substantial cash flowing to these corporations years ahead of conveyance and evaluation of land selections. Over $150 million has been distributed to Native corporations; whereas land selections have not yet resulted in title passing to the corporations, selections will not be completed until the end of 1975, at the earliest, and conveyances will not be completed for perhaps 15 years.

The Native corporations must do something with the money they are receiving. They cannot let it lie fallow in checking accounts, yet they are unprepared now to proceed immediately into profit-oriented business for themselves. To meet this problem corporations are to some extent planning to put money into commercial bank time deposits or certificates of deposit with interest returns somewhat higher than savings accounts, but lower than "high-risk" investment ventures.

These plans present another potential problem under the 1940 Act. While the Court of Appeals for the Second Circuit has held that "certificates of deposit" are not "investment securities" for 1940 Act purposes, the SEC staff informally takes a contrary position. Thus the Native coporations which prudently try to obtain moderate return by purchasing certificates of deposit may be required to undergo costly and time-consuming registrations under the 1940 Act only to find that three years from now when land selections are complete they are no longer subject to that Act and must then go through costly and time-consuming procedures to deregister. The end result is extensive paperwork and a needless waste of time, money, and manpower.

It is too early for these fledgling corporations to know even what their investment policies and legal and accounting problems may be to

make registration practicable for them under the Investment Company Act. On the other hand, the penalty for failure to register under that Act, even for a company which inadvertently becomes subject to its provisions, are severe. It is the purpose of Section 3 of H.R. 6644, amended, to provide the corporations formed under the Settlement Act with turnaround time in order to identify any problems which they may ultimately have under the Investment Company Act and to work out appropriate solutions for such problems internally and in consultation with the staff of the Securities and Exchange Commission.

The SEC has promulgated a temporary rule exempting Native corporations which register as investment companies from most of the provisions of the 1940 Act. Nonetheless, the exemption provided for in this section is necessary. The Committee is informed that some Regional Corporations have not registered under the SEC temporary rule and there exists some risk that their corporate acts and contracts might be vulnerable to challenge under the 1940 Act. The exemption will provide necessary breathing room to the SEC and the Native corporations in order to permit resolution of long-range solutions.

Another reason for temporarily exempting these entities from the Investment Company Act is to enable them to merge under provisions of Section 6 of H.R. 6644. In 1975 the NANA Corporation and the eleven Village Corporations in that region agreed on a plan of merger. The Natives spent about $200,000 in preparation and filing of a prospectus under the Securities Act of 1933. They did so in reliance on a "no-action" letter from the SEC advising them that no application would be necessary under section 17 of the Investment Company Act, a section which prohibits transactions between "affiliated persons" without a prior order from the SEC that the terms of the transaction are fair and equitable. At the last moment, however, the SEC withdrew their no-action letter, insisted on a section 17 application, and advised that no action would be taken on the application until extensive public hearings had been held. This administrative procedure imposes such substantial costs that merger may be impracticable. Since the very purpose of the merger authority in section 6 is to reduce administrative expense and overhead, it is appropriate at the same time to eliminate unnecessary expenses and delays imposed by federal securities laws.

B. The Securities Act of 1933 and the Securities Exchange Act of 1934

During the 20 year period when Native stock cannot be sold or transferred it is not necessary to subject these corporations to the expense and administrative burdens of compliance with the 1933 Securities Act and the 1934 Securities Exchange Act. Until December 1991, there will be no "market" in the stock of Native corporations since the stock is inalienable. Therefore it does not seem necessary to subject these corporations to the requirements of registering stock under the 1933 Act. The SEC has itself recognized that the 1933 Act need not be applied to those corporations in certain cases when it issued a "no-action" letter regarding the issuance of the initial shares of stock to Natives enrolled in Regional and Village Corporations.

The exemption from the 1933 Act is also needed to effectuate the merger authority in section 6. The 1933 Act requires that the stock be registered with the SEC, and a prospectus prepared and mailed

to all stockholders to whom the stock is offered, prior to the time at which they make the decision on the merger. Stock registration under the 1933 Act is an extremely elaborate and technical proceeding. The resulting prospectus, to be mailed to the stockholders, is intended to disclose every last detail bearing on the question of whether the person should acquire the stock. In the merger which NANA and the Village Corporations attempted to undertake in the spring of 1975, the prospectus, which had not yet been cleared by the SEC but which resulted from the SEC's initial round of comments on an earlier version submitted, consisted of a total of 80 printed pages, including 50 pages of financial statements, and accompanying footnotes, on all the corporations involved. In view of the lack of sophistication of most of the stockholders, particularly on matters such as complex mergers, such a document clearly is not an appropriate method of informing the stockholders. Yet, such a document would be required. It is extremely costly to prepare, and, as noted in the case of the NANA merger, costs well over $100,000. Clearly such costs for practical purposes would preclude the possibility of merger between two small Village Corporations which might be most in need of it.

Conversely, the tight restrictions of the 1933 Act on the verbal communications which may be made in conjunction with the prospectus virtually preclude any meaningful or simplified discussion at village or community meetings in order to explain merger to the stockholders. Thus the 1933 Act requires for disclosure an extremely complex and expensive document which does not serve its intended purpose at least as to Native corporations, but also precludes the one effective means of communication.

Similarly, application of the 1934 Securities Exchange Act is not necessary during the period when Native stock is inalienable. The 1934 Act applies to corporations with over 500 stockholders and $1,000,000 in assets. An exemption of Settlement Act corporations from only the 1940 Investment Company Act would result in all the Regional Corporations and approximately 19 of the Village Corporations being subject to the 1934 Act which requires expensive initial registration with the SEC, the filing of periodic reports with the SEC, and makes the detailed proxy rules applicable to any vote of stockholders. For the reasons discussed above under the 1940 Act, these requirements again have little proper application to Native corporations and do not fulfill their intended purpose in this context. In fact, in a recent letter to Congressman Lloyd Meeds in connection with the question of exempting the corporations from the 1940 Act, the SEC characterized the 1934 Act as "a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies." Since the stock of Native corporations may not be traded and the "public" may not invest in it until 1991, the 1934 Act has no proper application to these corporations.

Although the SEC has stated that the 1934 Act is designed to inform the "investing public" about securities, the federal securities laws do provide useful information to the stockholders as well as the investing public. Accordingly the new section 38 of the Settlement Act provides that any Native corporation which, but for the provisions of that section, would be subject to the 1934 Act, must transmit an annual

report to its stockholders containing subsantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

payments made under the Alaska Native Claims Settlement Act (P.L. 92–203) should be *disregarded* in determining eligibility for the Food Stamp Program and the extent of the food stamp benefit received by participating households. In addition, it asked for a decision from the USDA as to whether these payments should or should not be disregarded under the Federal regulations and instructions governing the counting of income and resources in the Food Stamp Program.

Alaska based its interpretation on numerous grounds—most notably, the provisions of section 2(c) of the Alaska Native Claims Settlement Act.[1] Section 2(c) of the Act states, in part—

"... no provision of this Act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; ..."

However, on April 22, 1974, the Washington headquarters of the Food Stamp Program notified its San Francisco regional office that payments to individuals and households under the Alaska Native Claims Settlement Act were *not to be disregarded* as income for purposes of the Food Stamp Program—although stock (in the various native corporations established under the Act) and land granted under the Act were to be disregarded as resources (assets) available to individuals and households applying for food stamps.[2] This notification was transmitted to Alaska—where payments under the Act were beginning—on April 23, 1974.

From discussions with Food Stamp Program personnel in San Francisco and Washington, D.C., it appears that the basic rationale behind the USDA's decision not to disregard these payments as income was that—

> Since the Alaska Native Claims Settlement Act contains no specific language requiring that these payments be disregarded in determining food stamp benefits,
>
> And since it is the general policy under the Food Stamp Program to count all income available for food expenditures unless legislation directs a disregard, and
>
> Income from payments under the Alaska Native Claims Settlement Act should be counted for food stamp purposes and to disregard them would grant Alaskan natives a privilege not granted to others applying for the Food Stamp Program.[3]

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[1] This description of the rationale behind Alaska's claim that these payments should be disregarded for food stamp purposes is based on information gained through discussions with the Food Stamp Program's San Francisco regional office. For a complete picture of the State's rationale, it would be advisable to obtain a copy of Alaska's letter to the USDA. The letter originated with Alaska's welfare commissioner.

[2] The actual text of the notification was—"For FSP [Food Stamp Program] purposes, cash payments made under P.L. 92–203 must be treated as income in accordance with the provisions of the program regulations. Stock and land received under P.L. 92–208 shall be excluded from resources as being unavailable to the household [applying for or participating in the Food Stamp Program]."

[3] As noted, this description of the reasoning behind the USDA's decision was gained through discussions with Food Stamp Program personnel—both in Washington and the San Francisco regional office. As yet, it has not been possible to obtain any *written* description of the USDA's rationale.

In addition, two points of "legislative history" were mentioned in discussing the reasoning backing up the USDA's decision. First, it was noted that the Senate version of the Alaska Native Claims Settlement Act (and the report accompanying it) contained language that might be construed to call for the disregarding of payments under the Act for Food Stamp Program purposes. However, this language did not find its way into the final Act, or the conference report. Second, provisions of a later act, P.L. 93-134, called for the disregarding of payments under court settlements of certain Indian claims in determining benefits under the Social Security Act.[4] However, this was *not* done in the case of payments under the Alaska Native Claims Settlement Act, for either Social Security Act programs or the Food Stamp Program.

Cash Welfare Benefits

In March 1974, HEW was notified of the questions existing as to whether to disregard payments under the Alaska Native Claims Settlement Act in determining eligibility for and the amount of cash welfare benefits under the Aid to Families with Dependent Children (AFDC) Program and the Supplemental Security Income (SSI) Program.

On May 3, 1974, Mr. Carlucci, Under Secretary of HEW, announced in Seattle that it had been decided that tax-exempt payments under the Alaska Native Claims Settlement Act *would be disregarded* in determining eligibility and benefits under the AFDC and SSI Programs (authorized by title IV-A and XVI of the Social Security Act). A later program instruction issued on July 3, 1974 (copy attached) confirmed this announcement for the AFDC Program, and SSI Program rules were also changed accordingly.

From discussions with Washington, D.C., personnel of HEW's Social and Rehabilitation Service and the content of the July 3, 1974 program instruction, it appears that HEW's basic rationale in deciding to disregard payments under the Alaska Native Claims Settlement Act in determining AFDC and SSI cash welfare benefits was that—

> 'The Alaska Native Claims Settlement Act, specifically section 2(c)[5] of the Act, required that the payments be disregarded to the extent they are tax-exempt.'[6]

In addition it was pointed out in discussions that the provisions of P.L. 93-134 (requiring the disregarding of certain other Indian claims payments) could be construed to indicate a general Congressional intent that payments of Indian claims be disregarded in determining benefits under the Social Security Act programs administered by HEW (i.e., AFDC and SSI).

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[4] P.L. 93-134 did *not* require that these payments be disregarded for Food Stamp Program purposes.

[5] The relevant portion of section 2(c) of the Act is quoted at the beginning of this report.

[6] As noted, the only available *written* description of the rationale behind HEW's decision is the July 3, 1974 program instruction. As yet, it has not been possible to obtain any other written description of HEW's reasoning.

This inconsistency in Federal policy remained undisturbed until June 23, 1975. On that date, the United States Court of Appeals for the Ninth Circuit rendered a decision in *Hamilton* v. *Butz* (No. 75-1268) reversing the District Court's order denying a preliminary injunction to prohibit the Secretary of Agriculture and other public officials from considering funds paid to Natives under the Settlement Act as "resources" available to Native households in determining whether such households are eligible for assistance under the Food Stamp Act. The Court of Appeals ordered the District Court to permanently enjoin the Secretary from so considering Settlement Act payments as "resources" and to prescribe "such other relief as may be necessary to restore the eligibility for food stamps to those Native households that have been denied food stamps because of the Secretary's decision that settlement payments are 'resources' and to compensate Native households that may have been overcharged for food stamps because of the Secretary's actions".

The Committee concurs fully in this decision and subsection (b) of section 4, in requiring restoration of Native eligibility for food stamps, provides assurance that the decision will stand.

SECTION 5

Section 5 corrects an anomalous situation regarding the Alaska Native Fund which has arisen as a result of rulings by the Comptroller General. Appropriations of federal funds under the Settlement Act are credited to the Alaska Native Fund upon enactment of the appropriation measure. Under section 6(c) of the Settlement Act the appropriated funds are not paid to the Native corporations until the end of the fiscal quarter. Thus the funds appropriated in settlement of the Natives' claims may remain in the Treasury for as long as three months before actual payment to the Natives.

Since 1929, federal law has provided that all funds with balances over $500.00 carried on the books of the Treasury to the credit of Indian tribes would bear interest at the rate of 4% per annum (Act of February 12, 1929; 45 Stat. 1164, as amended; 25 U.S.C. § 161a). Since 1938, federal law has permitted the Secretary of the Interior to withdraw such tribal funds from the Treasury for alternative investment (Act of June 24, 1938; 52 Stat. 1037; 25 U.S.C. § 162a). On October 31, 1972, the Comptroller General ruled that the provisions of these two laws were applicable to the Alaska Native Fund "pending enrollment" under the Settlement Act, 52 Comp. Gen. 248 (B-108439). On December 28, 1973, the Comptroller General ruled that as of December 31, 1973, after enrollment had been completed, the Alaska Native Fund would no longer bear interest or be eligible for investment by the Secretary of the Interior. The effect of this latter ruling is that funds appropriated under the Settlement Act for payment to the Natives may remain idle for up to three months without payment of *any* interest to the Natives. The United States in effect can use those funds during that period to offset other obligations as a form of interest-free loan.

According to a 1971 report of the Treasury Department, there were approximately 450 trust accounts maintained by the government to the

credit of American Indian groups.[1] All of those funds, with the exception of one with a balance under $500.00, earned interest under federal law. The Committee believes that the Alaska Native Fund should be treated like every other Indian tribal fund. It appears that the Alaska Native Fund is the *only* Indian tribal fund which does not earn interest and is not available for investment by Interior. The Committee believes that the appropriations into the Alaska Native Fund are, in substance, the property of the Natives from the date of enactment of the appropriations bill. The requirement of subsection 6(c) of the Settlement Act that funds be distributed at the end of the fiscal quarter was intended to avoid administrative inconvenience, not to permit the United States to use the Natives' funds during the interim. The provisions of section 5 of this bill would reverse the Comptroller General's decision of December 28, 1973, and restore the Alaska Native Fund to the status it held under his October 31, 1972, ruling and the status held by all other Indian tribal funds. Section 5 applies the provisions of 25 U.S.C. §§ 161a, 162a to the Alaska Native Fund as long as there are funds on deposit in that fund and regardless of the completion of the enrollment process.

The Committee adopted an amendment to this provision which make clear its intent that nothing in the amendment shall be taken to create or terminate any trust relationship between the United States and Alaska Native individual or corporation.

SECTION 6

Section 6 would amend the Settlement Act by adding a new section 30 to permit mergers or consolidations among Native corporations within the same region. This section is required to permit such mergers because sections 7(h) and 8(c) of the Settlement Act prohibit for a period of twenty years from the date of enactment of that Act the sale or other alienation of corporation shares isued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation.

Many of the 220 Village Corporations appear to lack the financial wherewithal and trained manpower which they must possess to become economically viable entities. Village Corporation income will be derived primarily from two sources: distributions from the appropriate Regional Corporation and money derived from the development of the surface estate. Since many Village Corporations have relatively few shareholders, their monetary allocations from the region may be quite small. Moreover, Village Corporations which do not have lands with recreational, timber, or other surface potential will derive little income from this ownership. Finally, many Village Corporations in the remote areas of Alaska do not now possess a trained leadership group, and it is unlikely that they will be able to develop one or to hire needed personnel in the foreseeable future.

For these reasons, it is likely that many Village Corporations will fail if merger authority is not provided. Such a result would frustrate

[1] Receipt, Appropriation and other Fund Account Symbols and Titles, as of Jan. 11, 1971, Dept. of the Treasury, Fiscal Services, Bureau of Accounts, Dir. of Govt. Fin. Oper., Accts. 14X7000–14X7468, pp. 111–140.

the purposes of the Settlement Act, because Native shareholders would be denied the opportunity to participate in the benefits which the Act was intended to provide. Monetary income would be lost, and Native corporations could lose the use and control of their land. Moreover, the lack of sufficient cash flow to a failing corporation might require the hasty and undesired development of those natural resources which the corporation does possess. Such development could jeopardize Native culture, the preservation of which is a central objective of many Native groups. The failure of Native corporations would also have an adverse impact on the general economy of Alaska, for the State and its constituent regional and local areas have much to gain from the existence of financially viable Native entities.

Subsection (a) of the new Section 30 would authorize mergers or consolidations among Native corporations of the same region. It would also allow the subsequent merger or consolidation of merged or consolidated corporatins with each other so long as they also are in the same region. The Native corporations affected by this provision are Regional Corporations established pursuant to section 7(d) of the Settlement Act, Village Corporations established pursuant to section 8(a), corporations for Native groups established pursuant to section 14(h)(2), and corporations established for the four urban centers (Sitka, Kenai, Juneau, and Kodiak) pursuant to section 14(h)(3).

Subsections (b) through (d) of the new section 30 set forth the procedures and conditions for such mergers or consolidations.

Subsection (b). Under subsection (b), all mergers or consolidations would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations, and to such terms and conditions as are approved by the shareholders of the corporations involved. The mergers authorized by corporation shareholders either before or after passage of H.R. 6644 would be covered and could take place under the provisions of the Bill. Thus, subsection (b) would allow a merger to be completed upon enactment of H.R. 6644 which was approved by corporation stockholders with the merger vote contingent upon subsequent enactment of legislation. This provision is necessary because of ongoing efforts to merger Village Corporations, particularly in the NANA Region of Alaska.

Subsection (b) gives to the merger corporation, upon the effectiveness of the merger, all rights and benefits that the Settlement Act confers upon the individual corporations and also makes it subject to all the restrictions and obligations that were made applicable to the individual corporations by the Settlement Act. The provision specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Settlement Act.

Subsection (b) specifically provides for the issuance of stock in the newly merged or consolidated corporations. In particular, it authorizes the issuance of additional shares of Regional Corporation stock in instances where other Native corporations merge or consolidate with the Regional Corporation. This authorization is required because of the Settlement Act's section 7(g) requirement that Regional Corporations issue 100 shares of stock to each Native enrolled in their respective regions. Subsection (b) also states that "the rights accorded under

Alaska law to dissenting stockholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act prior to December 19, 1991". The purpose of this provision is to eliminate any ambiguity as to the continued effectiveness of the Settlement Act's section 7(h)(1) prohibition against alienation of Native corporation stock for a period of twenty years.

The Committee adopted an amendment to subsection (b) which provides that if a village corporation which elected to retain its former reservation under section 19 of the Settlement Act merges or consolidates with another Native corporation within such region, nothing in such merger or consolidation shall affect any land entitlements, fund distributions, or revenue sharing rights under the Settlement Act. As in the case of section 1(b) of the bill, some question exists as to whether or not members of the so-called "19(b) Village Corporations" are to be counted as regional enrollees. The amendment adopted is merely to preserve the named entitlements or rights in any case and is not meant to be a congressional determination of that issue.

Subsection (c) concerns the rights of enrolled Natives who are shareholders of a Regional Corporation but are not residents of any of the villages in that region. Section 7(m) of the Settlement Act gives those Natives a right to receive dividents paid to Village Corporations under section 7(j) of that Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of H.R. 6611 or any other law, no merger or consolidation of Native corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Subsection (e).—Section 14(f) of the Settlement Act provides that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village are to be subject to the consent of the Village Corporation. This provision provides protection to villages from a precipitate decision by Regional Corporations to develop the subsurface estate. This provision seeks to avoid potential conflicts between villages which are holders of the surface estate and which may be made concerned with preserving the use of the land in accordance with traditional local life-styles and subsistence economy and Regional Corporations which are holders of the subsurface estate and which may have as their focus the generation of revenues from the land. Without specific provisions to the contrary, once a Village Corporation merges or consolidates with other corporations under this new section 30, it would lose this authority over its immediate land base. Therefore to preserve this authority, subsection (e) has been included. Subsection (e) requires that any plan of merger or consolidation must provide that the 14(f) right of any

affected Village Corporation is to be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of that village.

SECTION 7

Section 7 extends the life of the Joint Federal-State Land Use Planning Commission for three years from December 31, 1976 to June 30, 1979.

The Joint Federal-State Land Use Planning Commission for Alaska was established pursuant to section 17(a) of the Settlement Act. The principal responsibilities of the Commission were set forth in section 17(a)(7) and 17(b) of the Settlement Act. That the Commission has met its responsibilities in an effective and even-handed manner is best demonstrated by the support for the extension of its term beyond the December 31, 1976, termination date. This support, as demonstrated in hearing testimony and communications with the Committee, comes from the Secretary of the Interior, the Governor of Alaska, the entire Alaska Congressional delegation, the Alaska Federation of Natives and various Regional Corporations, and environmental groups.

SECTION 8

Section 8 of H.R. 6644, as introduced, provided for the establishment of a 13th Region and the incorporation of a 13th Regional Corporation for the benefit of enrolled Natives who were not permanent residents of the State of Alaska.

Section 5(c) of the Settlement Act provided that such "non-resident" Natives (eighteen years of age or older) would elect, when they filed their application for enrollment, whether they wish to enroll in a 13th Region or in one of the twelve Alaska regions. If a majority of such non-residents voted for a 13th Region, the Secretary was required to establish such region and authorize the creation of a 13th regional corporation for their benefit to administer distribution of funds from the Alaska Native Fund. Those who voted against the 13th would be enrolled to the appropriate Alaska region.

In the event less than a majority voted for the 13th, the issue filed and all non-residents were enrolled to their appropriate region in Alaska.

When the Secretary of the Interior certified the final Native roll on December 18, 1973, he also declared that less than a majority of the non-resident Natives voted for the 13th and the 13th region issue had failed. All non-residents were, accordingly, enrolled in the appropriate Alaska region.

Two organizations (Alaska Federation of Natives International, Inc. and the Alaska Native Association of Oregon) representing the interests of non-residents and the concept of the 13th region, separately, brought suit against the Secretary in the United States District Court for the District of Columbia. Requesting that the declaration of the Secretary be declared invalid and that the 13th region be established, the Plaintiffs alleged, inter alia, that:

(1) certain departmental officials involved in the enrollment process had evidenced a bias against the 13th region;

(2) the Secretary had failed to recognize amendments by

non-residents to their original enrollment application changing their vote from "no" to "yes";

(3) the Secretary had improperly counted non-residents who had abstained as "no" votes; and

(4) there was a general denial of due process in the secretarial enrollment-election process.

Legislation was introduced in the 93rd Congress which would have established the 13th Region, notwithstanding the determination of the Secretary, but which failed of enactment. H.R. 6644, as introduced, contained similar language.

On October 6, 1975, the District Court entered a final order implementing an earlier order in 1974, directing the Secretary to create the 13th Region, enroll therein all non-resident Natives who had indicated, on his last formal communication with the Secretary, his desire to enroll in a 13th region, and to provide for the incorporation of the 13th regional corporation. As the Committee considered the bill, the implementation of that order by the Secretary was well underway.

As a consequence, the Committee struck all of section 8 of the bill as being made moot by the Court's order. However, it added back language as section 8 which it deemed necessary to supplement the Court's order. The amendment provides that no change in enrollment to either the 13th region or to one of the twelve Alaska regions which is required or permitted by the Court's order shall affect any land entitlements of an Alaska Native corporation existing at the time of the creation of the 13th region. Also, it provides that, in furtherance of the Court's order, any cancellation of stock of a Native shall be without liability to either the corporation or the individual. Finally, it provides that in the event the Native roll is re-opened for new enrollment, eligible Natives who are permenant non-residents of Alaska shall elect whether they wish to enroll in the 13th Region or the appropriate Alaska region at the time of their enrollment.

In addition, the Committee adopted an amendement which preserves land entitlements notwithstanding administrative changes in the Alaska Native roll. Under section 14 of the Settlement Act, land entitlements of villages corporations are established on a scale based upon population. Proposed Interior Department regulations setting up a procedure for challenging enrollments of individual Natives has raised the possibility that a village having a minimum number of shareholders for its existing entitlement could lose an entire township if only one of its shareholders is successfully challenged and disenrolled. While the Committee, by this amendment, has not determined whether the Secretary has or has not the authority to make such administrative changes in the roll, this amendment would preserve existing land entitlements notwithstanding any such changes in the roll.

SECTION 9

Section 9 amends section 16 of the Settlement Act by adding a new subsection (d).

Under section 19 of the Settlement Act, former reservations in Alaska established by Executive or Secretarial order or by Act of Congress, with the exception of the Annette Island Reserve, were abol-

ished. Native villages within such reserves had the option of retaining the lands, surface and subsurface, set aside as a reservation or of participating in land entitlements under the Settlement Act, in which case they received no subsurface rights. These rights are reserved for the regional corporations.

A reservation was set aside by the Act of September 2, 1957 for the Chilkat Indian Village which was organized pursuant to the provisions of the Indian Reorganization Act, as amended. The land was near the village of Klukwan and was an enlargement of an Executive order reservation. The same Act permitted the IRA corporation to lease the minerals underlying the lands for its benefit. This was done.

The Natives of the Klukwan village area voted to retain the former reserve. However, section 19 made such lands, in the hands of the Native corporations, subject to valid existing rights. One such right was the existing iron ore mineral lease by the IRA corporation which remained separate from the ANCSA corporation.

While all of the members of the IRA corporation are also members of the ANCSA corporation, the reverse is not true. Since the IRA corporation has a vested right to the subsurface of lands and very likely to the surface also, the net effect is that the ANCSA corporation and its shareholders have no real assets whatsoever.

The new subsection (d) of section 16 would, in effect, vitiate the election of Klukwan, Inc. to retain their former reserve. Lands which were withdrawn for them for selection prior to that election are to be rewithdrawn for a period of one year after the date of enactment of this section and Klukwan, Inc. is to select an area equal to 23,040 acres in accordance with the Act. The corporation and its shareholders will share fully in the benefits of the Act as if there had been no election under 19(b).

The foregoing provision will not become effective until Klukwan, Inc. quitclaims to Chilkat, Inc. any interest it may have in the former reserve lands which are quieted in Chilkat, Inc., in fee simple.

The Committee adopted an amendment to section 9 which provides that the United States and Klukwan, Inc., must also quitclaim any interest they may have in certain funds earned on the lease of the mineral resources of the former reserve since enactment of the Settlement Act to Chilkat, Inc.

In addition, the Committee adopted another amendment which provides that nothing in the new subsection shall affect existing land entitlements in 14(h)(8) of the Settlement Act.

SECTION 10

The Native region created by the Settlement Act for southeastern Alaska was precluded, generally, by the Congress from sharing in the land benefits of the Act. This area encompasses the Tlingit-Haida Indians. Prior to enactment of the Settlement Act, this tribe recovered an award of several million dollars against the United States for extinguishment of their aboriginal land claims in the southeastern area.

In consideration of this fact, the southeast region (Sealaska, Inc.) does not generally share in the land benefits accorded to other regional corporations. However, Sealaska, Inc., does receive certain land entitle-

ments under section 14(h)(8) of the Act. The estimate is that Sealaska's share will approximate 200,000 acres.

Practically the entire area of southeastern Alaska is encompassed by the Tongass National Forest. What remains is either State or privately-owned lands, national monuments, village selected lands, mountain tops or glaciers, or otherwise valueless lands. If Sealaska's entitlement under section 14(h)(8) is not to be meaningless, it must be allowed to select lands within the Tongass National Forest.

This section provides that Sealaska, Inc., may select its approximately 200,000 acre entitlement from lands which were withdrawn in the National Forest for selection by village corporation of the southeastern region, but which were not so selected. The section provides that Sealaska, Inc., may not select any lands an Admiralty Island in the withdrawal for the village of Angoon. In addition, no selections can be made in the withdrawal for the villages of Yakutat and Saxman, unless the Governor of the State of Alaska or his delegate consents to such selection.

SECTION 11

Section 11 resolves a dispute between the Chugach Regional Corporation and Sealaska on the boundary between the two regions. It confirms the boundary at the 141st meridian, but provides that the members of the southeastern regional village of Yakutat must be accorded certain traditional uses of lands in the vicinity of Icy Bay in the Chugach region. It is the intent of the Committee that the phrase "in the vicinity of Icy Bay" be construed narrowly to those areas to which the Natives of Yakutat can clearly show past and current traditional uses and that such use right shall not unreasonably restrain Chugach, Inc. from developing its lands in accordance with the purposes of the Settlement Act.

SECTION 12

From the outset of the implementation of the Settlement Act, there have been extreme difficulties encountered in adequately fulfilling the land entitlements of the Cook Inlet Regional Corporation under section 12(c) of the Settlement Act. Under the Statehood Act, the State had already obtained patents to much of the low-lying lands in the region, except for lands within the Kenai National Moose Range. In addition, the Secretary, in an agreement with the State of Alaska in 1972, committed additional lands to the State even though there had not yet been withdrawn sufficient lands for Cook Inlet Region. The subsequent efforts of the Secretary to fulfill his statutory obligation to Cook Inlet has yielded, for the region, selections largely comprised of mountains and glaciers, hardly the settlement contemplated by the Congress. Since early 1972, the Region has been attempting to resolve these issues by litigation, negotiation, and now by legislation.

In the last eight months, a series of intense discussions with the Secretary, the State, and various other interested groups (including local government, mining interests, and environmental groups) has resulted in a negotiated settlement entitled "Terms and Conditions for Land

Consolidation and Management in the Cook Inlet Area." The document harmonizes conflicting interests, seeking to adjust an equitable settlement for Cook Inlet Region consistent with the needs of Alaska and the public at large. As such, it is more than a Cook Inlet Region, Inc. settlement. It seeks to resolve harmful jurisdictional conflicts and arbitrary ownership patterns within the Cook Inlet region. It opens for development lands that should be in private ownership and conserves for public use lands that should have that status.

The section accomplishes this complex task by ratifying and incorporating the proposed "Terms and Conditions" as a part of the bill.

Under the bill, the Region agrees to shift more than half of its statutory entitlement away from the populated Cook Inlet area and, with the consent of the other regions (where applicable), into the adjacent regions.

The Federal government conveys approximately 50 townships of land to the State in addition to other valuable consideration (including a key tract near Anchorage and improved selection rights for the State under the Statehood Act) in exchange for approximately 20.5 townships of land to be conveyed to the United States for the benefit of the Cook Inlet Region and certain of its village corporations.

The Federal government conveys approximately 10,000 acres of the Kenai National Moose Range and certain other lands to the Cook Inlet Region, Inc., in addition to the lands received from the State. The lands thus received by Cook Inlet are in complete satisfaction of its entitlement under section 12(c) and section 14(h)(8) of the Settlement Act.

The settlement.—This section directs and authorizes the Secretary to perform the obligations imposed upon the United States by the section and the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," which document has been submitted to the House Committee on Interior and Insular Affairs, is incorporated into the section by reference, and is printed in full elsewhere in this report.

State participation.—The Committee views the context of an ongoing need for federal-state cooperation in the resolution of land issues in Alaska. The concentration of State patented land, selected within the Cook Inlet Region prior to the 1969 land freeze, makes State participation virtually indispensable. With respect to Cook Inlet, the bill provides the State with a more substantial role in the designation of any land to be received than was true under the Alaska Native Claims Settlement Act. The bill clears the opportunity for the Secretary to convey certain important tracts to the State and precludes the need for Regional selections that would impact important State interests. Resolution of the outstanding Cook Inlet issues precludes the need for Congressional evaluation of the Secretary's 1972 agreement with the State, subsequent to the passage of the Alaska Native Claims Settlement Act, making available to the State lands that might otherwise have satisfied the Cook Inlet Region entitlement. In addition, the Region relinquishes rights it may have to the Swanson River, Beaver Creek and certain other proven oil and gas fields, to lands in the Chelatna area, and to lands located near potential capital sites in the State. Under the bill, the Secretary must report to the

Congress, by April 15, 1976 on the State's final consent to the land consolidation and management plan. Until the issues are resolved, the Secretary is precluded from making conveyances to the State, as identified in the legislation, that would limit the opportunity of the Congress to devise a suitable legislated resolution.

Kenai National Moose Range.—The Secretary is directed to convey sixteen sections of unrestricted surface and subsurface estate, except for a zone along lake and river frontage in which the surface only is transferred and is subject to significant restraints to protect the environment. In addition, the Secretary is directed to convey up to 9.5 townships of subsurface in the Range. There are 3.5 townships in lieu of the Region's entitlement under section 14(h)(8) of the Act. In addition, the Secretary is directed to convey, up to the statutory limit, such subsurface under the Moose Range, as indicated in the "Terms and Conditions," to supplant "in lieu" entitlement under section 12(a) of ANCSA, to compensate for subsurface loss in the Lake Clark area, and in lieu of certain subsurface that would otherwise be obtained under section 14 of ANCSA. The subsurface rights in the Moose Range are to oil and gas and coal, but the extraction of coal is explicitly restricted to carefully supervised insitu liquefaction and gassification processes.

Extra-regional selection.—The Secretary is directed to convey approximately 29.66 townships from outside the boundaries of Cook Inlet Region. These will come from five named Regions unless there is specific consent from another Region and the Secretary and the State. The Regions from which the lands are to be selected have the power to consent. It is not anticipated that the consent will be unreasonably withheld. It was envisioned that the consent would provide, for the other Regions, the ability to protect, primarily, the subsistence interests of their stockholders and certain economic activities. The power to consent, as understood by the Committee, will not be linked to the extraction of consideration from Cook Inlet Region, Inc. Nor is it foreseen that the power would be exercised in withdrawals where the Region involved has no selection itself or where no villages within the Region have selections.

Exchange pool.—The Secretary is directed to maximize a pool of federal properties available to reduce the extent of out-of-region acreage. The Region, after such properties are declared surplus, would be permitted first priority. To the extent properties are made available pursuant to the process described in Section 3(e) of the Alaska Native Claims Settlement Act, only those clearance procedures, if any, there required, will apply. Village corporations may exercise Section 12(b) rights in the pool on the same basis as the Region, but only when the Region determines that it would be appropriate in light of the pool's primary function.

Village selection.—Because of the uncertainties rising from the negotiations, additional time is necessary for the village corporations in the Region to file their selections. The legislation provides an additional year. In case of failure of the agreement, the Region also needs the opportunity to alter its priorities but it is the hope of the Committee that this will be done administratively by the Secretary.

The Committee feels that the Cook Inlet Region was under some

constraints in the negotiations resulting in this agreement. It is expected that ambiguities and uncertainties in the complex, delicately balanced settlement will be resolved favorably, where appropriate, to the Cook Inlet Region.

SECTION 13

Section 13 amends section 21 of the Settlement Act by adding a new subsection (f).

The new subsection provides that, until January 1, 1992, the stock of any Native corporation, including the right to receive dividends therefrom, shall not be included in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

SECTION 14

This section directs the Secretary to pay, by grant, $250,000 to each of the Native corporations of the cities of Juneau, Sitka, Kodiak, and Kenai, and $100,000 to each of the village corporations of Artic Village, Elim, Gambell, Savoonga, Tetlin, and Venetie.

Under the terms of the Settlement Act, the Native corporations organized for the Natives of the four named cities received limited land benefits. However, they are not entitled to share in the fund distribution of the Act. Without funds, these corporations have been severely hampered in carrying out their obligations and duties under the Settlement Act, to plan for the development of the resources, and to preserve and protect those resources.

The listed village corporations elected to retain their former reserves pursuant to section 19(b) of the Settlement Act. As a consequence, they are also precluded from sharing in the monetary compensation of the Act. They too, are severely hampered in carrying out the functions which Congress intended.

SECTION 15

Section 15 directs the Secretary to convey to the Koniag, Inc., the Native Regional Corporation for the Kodiak Region, approximately 186,000 acres of subsurface estate in the area which was withdrawn for that purpose by Public Land Order 5397 and for the proposed Aniakchak Caldera National Monument under Public Land Order 5179. Koniag is permitted access to the surface as reasonably necessary to explore for and extract oil and gas, subject to reasonable regulations by the Secretary.

Under the terms of the Settlement Act, the regional corporations are entitled to the subsurface estate underlying the surface of lands selected by the village corporations of that region, except in cases where such selections are made in a National Wildlife Refuge or in Naval Petroleum Reserve Numbered 4. In that case, the region has the right to an "in lieu" subsurface selection of equal acreage from other lands withdrawn pursuant to section 11(a) of the Act, within the region if possible.

All of the villages of the Koniag region are on Kodiak Island which constitutes the Kodiak National Bear Refuge. As a consequence,

Koniag must take an "in lieu" selection to its subsurface entitlement from other available lands. The nearest such lands are across the straits on the Alaska peninsula.

Pursuant to section 17(d)(2) of the Settlement Act, the Secretary, by Public Land Order 5179, as amended, withdrew approximately 580,000 acres of land for the proposed Aniakchak Caldera National Monument.

Koniag's subsurface entitlement is approximately 600,000 acres. Approximately 380,160 acres were withdrawn by Public Land Order 5397 within the area withdrawn for the Aniakchak Caldera National Monument for purposes of such selection. Under the terms of the Settlement Act such dual withdrawals are reserved for the Congress to decide.

Under the terms of an agreement reached with the Secretary, Koniag agrees to limits its rights in the 17(d)(2) withdrawal to approximately 186,000 acres of lands designated by the Secretary, with a limitation of oil and gas extraction subject to reasonable regulations by the Secretary to preserve surface values from permanent harm. As amended by the Committee, the section requires the Secretary to reasonably make available to Koniag sand and gravel necessary to exercise the rights conveyed.

SECTION 16

Section 16 is intended to prevent the Village Corporation for the Village of Tatitlek from losing part of its land entitlement as a result of a misunderstanding. Tatitlek relied on a consultant firm's advice and the apparent approval of the Interior Department in selecting two townships of its five township entitlement in an area withdrawn by the Secretary pursuant to section 17(d)(2) of the Settlement Act. Subsequently, however, the Bureau of Land Management disapproved the selection of the two townships. Because Tatitlek assumed that its selection had Departmental approval, it did not over-select other lands to provide alternate lands for selection in case its first selections were not approved. The deadline for village selections has passed and the Department has advised Tatitlek that no administrative remedy exists to allow re-selection of the two townships elsewhere. This amendment provides that Tatitlek can select the remainder of its entitlement—40,000 acres—from within the village deficiency area originally withdrawn for its selection.

SECTION 17

Section 17 amends subsection (f) of section 22 of the Settlement Act which provides certain authorities for land exchanges by Federal agencies with other land owners in Alaska.

In order to facilitate the Cook Inlet Area agreement provided for in section 12, the Department of the Interior advised that additional authorities for land exchanges would be needed.

The existing language of the subsection would not permit direct exchanges of land between the State and with Native corporations.

Secondly, section 6(i) of the Alaska Statehood Act prohibits the State from transferring the mineral interest to third parties in patents of lands selected by it under the Statehood Act.

Finally, the existing language of subsection (f) requires exchanges to be on the basis of equal value.

The amended language will permit direct exchanges of land between the State and Native corporations. It will permit the State or transfer mineral interests, notwithstanding section 6(i) of the Statehood Act, to Federal agencies in such exchanges. Finally, it will permit exchanges under the subsection to be on a basis other than equal value if the parties agree to the exchange and the Secretary deems it to be in the public interest.

SECTION 18

Section 18 is merely a savings clause which provides, that except as specifically provided in this legislation, the provisions of the Settlement Act are fully applicable to this legislation and nothing herein shall be construed to alter or amend those provisions.

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA

Section 12 of H.R. 6644, as amended by the Committee, implements an agreement reached among the United States, the State of Alaska, the Cook Inlet Regional Corporation, and other interested parties to resolve the problem Cook Inlet Region, Inc., encountered in realizing its land entitlements under the Settlement Act. That section is general in terms and incorporates into it, by reference, the text of the agreement reached by the parties. The Committee intends that section 12 and the implementing agreement be construed together to give effect to the settlement of the Cook Inlet problem in a manner that is fair and equitable to the Cook Inlet Regional Corporation and the other parties.

The agreement is as follows:

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA, DECEMBER 10, 1975

I. The United States shall convey to Cook Inlet Region, Inc., the following lands:

A. Sixteen (16) sections of land, as described in Appendix A, presently within the boundaries of the Kenai National Moose Range, excluding the bed of Lake Tustumina, but to be removed from the boundaries of the Range. The conveyance of these lands shall be subject to the following conditions:

(1) Included in the lands described in this paragraph shall be a restricted zone of lake front and river front lands, not to exceed an average of 160 acres per linear mile, to be measured from the high water line, the exact boundaries to be determined by mutual agreement between CIRI and the Secretary no later than September 1, 1976. The conveyance of the lands within this zone shall contain the following restrictions so long as Lake Tustumena remains a part of the Range:

(a) A restrictive covenant running with the land which provides that no development shall take place or facilities be

constructed within the zone, except those which are directly necessary to support water dependent activities, such as a boat dock, airplane tie-up and marina. Reasonable access to these facilities will be permitted. It is contemplated that a lodge may also be located within the restricted zone, provided, however, that the lodge shall be of such a design, size and at a location agreed upon by the United States Fish and Wildlife Service. CIRI must submit a request in writing to the Fish and Wildlife Service for approval of any construction or development within the zone, which approval will not be unreasonably withheld. The Fish and Wildlife Service will notify CIRI of its decision on any such request within 120 days of receipt of such request, and failure of any response will be considered as approval.

(b) a provision that CIRI will not sell the lands to any third party for a period of 25 years from the date of the conveyance, without the consent of the Secretary.

(c) a provision that CIRI and its assigns will offer the United States the right of first refusal to purchase the lands if the lands are ever sold. The right of first refusal shall be for a period of 120 days from the date of notice in writing to the United States that the owner of the land has received a bonafide offer of purchase. The United States shall not be deemed to have exercised its right of first refusal if the owner does not consummate this sale in accordance with notice to the United States.

(d) the conveyance of the lands comprising this restricted zone shall not include the bed of Lake Tustumena and shall only convey the surface estate to CIRI. The United States shall retain the rights in oil and gas and all minerals, including but not limited to common varieties of minerals.

(e) the United States reserves the right of re-entry on these lands to be exercised upon occurrence of the following conditions:

(1) The United States obtains a final judgment in a proceeding in law or equity to enforce in whole or in part the restrictive covenants contained in the conveyance of the lands described in this section; and

(2) subsequent to such final judgment, the United States institutes proceedings in law or equity to enforce the provisions of the restrictive covenants which were the subject of the final judgment obtained in subparagraph (1) of this paragraph. The right of re-entry shall be asserted in such subsequent action but may not be actually exercised except upon and in accordance with the final judgment in favor of the United States in such subsequent action.

(3) such right of re-entry shall be limited, in any case, to the lands which were the subject of the final judgment referred to in subparagraph (1) hereof.

(2) The remainder of the lands described in Appendix A shall be conveyed to CIRI without restriction, other than the reserva-

tion of those easements authorized by 17(b) of ANCSA or other applicable federal statutes. The conveyance of such remainder shall include both the surface and the subsurface estates to such lands.

B. Three and fifty-eight one hundreds (3.58) townships of the subsurface estate to oil and gas and coal as identified in Appendix B; provided that the United States shall retain all other minerals including but not limited to common varieties of minerals; and provided that the right to extract coal shall be conditioned upon the opening for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. The extraction of oil and gas and coal shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by CIRI, its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction. The United States shall make available to CIRI, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect. By mutual consent of CIRI and the Secretary, CIRI may exchange any interest described in this paragraph for other mineral interests of equal value outside the boundaries of the Kenai National Moose Range.

(1) All federal lands and interests in lands within the following:

(a) T. 10 S., R. 9 W., F. M. (Healy); and

(b) T. 20 N., R. 9 E., S. M. (Glenn Highway).

(2) T 1 N R 21 W, S. M. (sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36). The Secretary shall only convey the rights to metalliferous minerals in the land herein described. Extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary. Surface use of the purposes of exploration, extraction, access and beneficiation shall be conducted in accordance with the most advanced technology commercially available at that time consistent with the exercise of the rights conveyed under this subparagraph. CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights.

(3) T 1 S, R 21 W, S. M. (Sections 3–10, 15–22, 29 nd 30). The Secretary shall transfer to CIRI the above described lands in fee simple. Such conveyance shall be subject to a restrictive convenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRI, an easement for a port which shall reasonably provide for receiving, shipping, storage and incidental handling, and incidental facilities thereto, of the minerals extracted from the lands conveyed under

this subparagraph. The Secretary shall also convey to CIRI a transportation easement to provide for transportation by road, rail or pipeline, of the minerals from the above described lands to the port easement. The Secretary and CIRI shall mutually agree upon the location of the port and transportation easements.

C. (1) Twenty nine and sixty six one hundredths (29.66) townships from any federal public lands withdrawn under sections 11(a)(1), 11(a)(3), and 17(d)(1) without the exterior boundaries of Cook Inlet Region; to be identified in the manner herein provided; provided that if CIRI's total entitlement under Section 12(c) of ANCSA is determined to be greater or less than 54 townships, the number of townships to be conveyed under this paragraph (hereinafter out-of-Region entitlement) shall be increased or decreased one for one.

(a) lands to be nominated and conveyed under this paragraph C-1 shall be limited as follows: The entitlement shall be satisfied from lands within Ahtna Region, Bristol Bay Region, Calista Region, Chugach Region, and Doyon Region. With the concurrence of the Secretary and the State and any affected Region other than those described above, selections may be made from one or more of the other Regions, on the basis hereinafter described or on such other basis as the parties shall contemporaneously agree. CIRI shall not nominate any of the following:

(1) lands located west of the 161 degree west longitude of Greenwich Meridian

(2) lands within Areas of Environmental Concern as described in the Secretary's 1973 Four Systems proposals to Congress

(3) lands within any of the Secretary's 1973 Four Systems proposals to Congress

(4) lands made available to the State for selection pursuant to Sections 2 and 5 of the State-Federal Agreement of September 1, 1972.

(b) By May 1, 1976 the Secretary shall, after consultation with the State, submit to CIRI a list of areas where approval of out-of-Region selections is unlikely. CIRI may thereafter nominate to the Secretary, with simultaneous notice to the State, a township or townships for selection. Within 120 days after such nomination, the Secretary after consultation with the State shall approve or disapprove it for withdrawal for placement in the selection pool as described herein. By October 18, 1978 CIRI must nominate at least 6 times its remaining out-of-Region entitlement. If the Secretary fails to approve a pool of three times that remaining out-of-Region entitlement from said nominations, then he and CIRI, by mutual consultation and study, shall agree by January 18, 1979 on sufficient additional townships to compose that number. The Secretary must, on that date, report to Congress as to the operation of this selection mechanism, and the need for remedial legislation, if required. Upon completion of the pool, the State and CIRI shall commence a striking and selecting process. The State may strike ten percent of the pool and the Region may select a number of townships equal to ten percent of the original pool. Alternate strikes and selections of five percent of the

original pool shall continue until CIRI's out-of-Region entitlement is, as defined in this paragraph, satisfied. The State and CIRI must complete this process within four months of completion of the pool. Notwithstanding the foregoing, with the consent of the United States, State of Alaska, and CIRI, lands may be conveyed wihout resort to the pool and striking mechanism herein provided, or in the manner described in subparagraph 2 of this paragraph C, in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Statehood Act which may be affected by this paragraph C, provided however, that any Regional nomination made hereunder shall be superior to and take precedence over any such State selection made after July 18, 1975. None of those lands selected by the State under the Statehood Act after July 18, 1975, and also nominated by CIRI pursuant to this paragraph C, shall be tentatively approved for patent to the State by the Department of the Interior for so long as these lands are potentially available to CIRI under this subparagraph unless CIRI has consented to such tentative approval.

(d) Lands approved by the Secretary for the out-of-Region pool shall, as of the date of such approval, be withdrawn from all forms of entry and location under the Public Land Laws including the mining and mineral leasing laws, but not from selection by the State, for so long as the said lands shall be included in the said pool.

(e) Prior to nomination of any townships for secretarial approval, the Region shall obtain the consent of other Native Corporations where applicable, and a copy of such consent shall be attached to such nomination.

(f) CIRI shall select its out-of-Region entitlement in blocks no less than 36 sections in size, along section lines, with no segment of an exterior line less than six miles in length, unless the Secretary specifically authorizes another manner of selection.

(g) CIRI may, with the consent of the Secretary and the State, select that portion of the mineral estate reserved by the United States in a township if the remainder of the estate may not be legally or readily available for selection, in which case, however, such substitute selection shall be treated as full satisfaction of the entitlement represented by the acreage involved and no additional selection rights shall arise by reason of the lack of conveyance of the entire estate.

(h) It is the intent of the Secretary and the State that all out-of-Region selections shall be as compact as is practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately-owned lands.

(i) Nothing in this paragraph shall be construed as limiting any Congressional review and approval of the Secretary's 1973 four systems proposals to Congress.

2(a) The Secretary, in conjunction with the General Services Administrator, shall promptly identify and take the necessary steps by

January 15, 1978, to create a selection pool which shall consist of all the following lands, within the exterior boundaries of the Cook Inlet Region, now in existence or hereafter coming into existence by January 15, 1978:

(i) abandoned or unperfected public land entries, provided however, that the United States shall not be obligated to initiate any adversary proceedings other than an adjudication by the BLM to determine if such entries are abandoned or unperfected, and the burden of identifying such lands shall be on CIRI;

(ii) federal surplus property;

(iii) revoked federal reserves;

(iv) cancelled or revoked power site reserves, with the exception of the Bradley Lake reserve, reserves in the Lake Clark proposal, and the Chakachamna Lake reserve, if any are ever cancelled or revoked;

(v) public lands created by the reduction of federal installations as defined in Section 3(e) of ANCSA, except that, if such lands are within a Section 11(a)(1) withdrawal area, they shall be subject to prior Village Corporation selections properly filed prior to December 18, 1975; and

(vi) any other federal lands as agreed by the State the Region and the Secretary, including but not limited to lands withdrawn under Section 17(d)(1) of ANCSA and not withdrawn for any other purpose.

The Secretary shall notify CIRI after any above-described lands have been placed in the pool. With the concurrence of CIRI, the State and any other concurrence that may be required under paragraph I-C(1)(e) of this Document, the Secretary may, in his discretion, contribute to such pool properties of one or more of the foregoing categories from without the boundaries of the Cook Inlet Region, provided that properties described in subparagraphs (2)(a)(ii) and (2)(a)(iii) of this paragraph shall be removed from the pool if not selected by CIRI within 90 days after the Secretary notifies CIRI that such properties have been placed in the pool or valued by the Secretary in Subparagraph 2(c) of this document whichever date is later.

(b) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph 2(a) and may require Secretarial consultation with the Joint Land Use Planning Commission with respect to any specific piece of property so included, except those in subparagraph 2(a)(i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land-management principles; provided, that the Secretary shall not be bound by any recommendation of the Joint Land Use Planning Commission. The Secretary shall notify the State, CIRI and the Commission of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres, described in paragraph 2(a)(i) and 2(a)(iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal values. Lands not included in the pool as result of the State's conclusive objection or which have been replaced by the

State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

(c) Unless specifically excepted by the Secretary, all tracts of land and improvements thereto in said pool shall be appraised by one or more appraisers mutually agreeable to CIRI and the Secretary.

(d) CIRI shall be entitled to select any tract of land from said pool in exchange for its out-of-Region selection rights, in part or in whole and *pro tanto*, in satisfaction thereof, in the following manner:

(1) any tract of land and improvements thereto specifically excepted from appraisal by the Secretary as described in subparagraph (c) of this paragraph may be exchanged acre for acre;

(2) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at less than $500 per acre at fair market value may be exchanged acre for acre;

(3) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at $500 per acre or more at fair market value shall be exchanged as follows:

(i) for each acre of land in said tract, each valued increment of $500 or proportion thereof shall be considered an acre of land or proportion thereof, in the same proportion, hereinafter called an "acre/equivalent"; and

(ii) any acre/equivalents may be exchanged for any acres of CIRI's out-of-region entitlement.

(e) Anything in the foregoing provisions notwithstanding, the selection pool created hereunder shall not include or affect lands within the Point Woronzof, Point Campbell, Goose Lake, and Campbell tracts, to which CIRI waives any claim which it may have had; and such lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this Document.

(f) The Secretary shall utilize his best efforts to maximize the pool through the use of all available properties within the described categories in order to enhance the opportunity for the land exchanges described herein. If, by January 15, 1978, the Secretary and the General Services Administrator have not identified for the pool at least 138,240 acres, or acre/equivalents of lands within the exterior boundaries of Cook Inlet Region, the Secretary shall add to the pool an amount equal to the difference between 138,240 acres, or acre/equivalents, and the number of acres so identified from the following:

(1) with the consent of the State, lands located within the boundaries of the Region, withdrawn for the purposes of section 17(d)(1) of ANCSA, and valued by the Secretary and CIRI at $200 per acre, or more.

(2) with the consent of the State and CIRI, lands described in subparagraph I–C(3)(a) of this Document from without the exterior boundaries of Cook Inlet Region.

CIRI must select all lands in the pool located within the Region which are valued by the Secretary and CIRI at $200 per acre, or more, until CIRI has selected 138,240 acres, or acre/equivalents as described in subparagraph 3(i) of this paragraph.

(g) No later than 90 days following the conclusion of the period for creation of the pool as specified in subparagraph (1) hereof, the Secretary shall, with the assistance of the General Services Administrator, report to Congress on the status of the conveyances under paragraph C and the need for remedial legislation, if required.

(h) Conveyances under this subparagraph I–C(2) shall not be subject to the provisions of Section 22(1) of ANCSA.

II. Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document. Said lands shall be considered State lands until the United States accepts the State deed of title. Upon acceptance of a State deed of title, the Secretary shall withdraw the lands conveyed thereby, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended; such withdrawal to expire upon reconveyance of said lands to CIRI.

III. A. The Secretary shall convey to the State of Alaska all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of lands from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River and Koksetna drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to Appendix D hereof; and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in Appendix E hereof.

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act; provided, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6 of the Alaska Statehood Act.

B. The Secretary shall convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in Appendix F hereof except for one compact unit of land which he determines, after consultation by the State of Alaska, is actually needed by the Bureau of Land Management for its present operations; provided, that in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in conformance with the generalized land use plan outlined in the Far North Bicentennial Park master development plan of September, 1974.

As a result of Section 12(a) of ANCSA, selections by Village corporations within the Kenai National Moose Range, or as a result of any section 14(h) (1), (2) or (5) of ANCSA selections within the Kenai National Moose Range or within the Secretary's 1973 Lake Clark proposal; and to the extent that CIRI's section 12(a) of ANCSA subsurface rights are reduced by virtue of exchanges resulting in the relinquishment of village selections in the Secretary's 1973 Lake Clark proposal or lands in paragraph VI CIRI shall take, in lieu thereof, an equal acreage from the following:

(a) The subsurface estate to oil and gas and coal in those lands described in Appendix B to the extent that such interests are not transferred under paragraph I-B of this Document, and are subject to the restrictions therein described; and

(b) Up to 46,080 acres of lands within section 11(a)(3) of ANCSA withdrawals in the Talkeetna Mountains; provided CIRI shall make all 12(b) selections in this withdrawal contiguous to existing 12(a) selections, first selecting all over-selected 12(a) lands in this withdrawal.

(c) If sufficient acreage to satisfy any such selections does not exist in those areas described in subparagraphs (1) and (2) of this paragraph, the Secretary shall make available lands outside the Region, in his discretion, for selection by CIRI.

Except as provided otherwise in this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act; provided, however, that the acreage limitation provided by section 7(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

C. The Secretary shall make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 124 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in Appendix G.

IV. The lands and interests conveyed to CIRI under paragraphs I and II of this Document shall constitute CIRI's full entitlement under Section 12(c) of ANCSA, except that the mineral estate conveyed pursuant to subparagraph I-B of this Document shall constitute full entitlement of CIRI's surface and subsurface entitlement under Section 14(h)(8) of ANCSA. The lands which would comprise the difference in acreage between the lands actually conveyed under paragraphs I and II of this Document, and any final determination of what CIRI's acreage rights under Section 12(c) and 14(h)(8) of ANCSA would have been notwithstanding the provisions of this Document, shall be retained by the United States, and this Document shall create no right or interest in any other Regional Corporation or Village Corporation notwithstanding any provisions of ANCSA to the contrary.

To the extent that CIRI is or becomes entitled to subsurface rights:

V. The Secretary, CIRI, and the State shall seek legislation authorizing the Secretary to convey title to those selections by Native Corporations within the exterior boundaries of Power Site Classifica-

tion 443, February 13, 1958, provided however, that the patents conveying the above described lands shall contain the reservations required by Section 24 of the Federal Power Act, 16 U.S.C. 318.

VI. A. The State shall not select any of the following lands, so that such lands may be added to a management unit in the Lake Clark Area:

T 4 S R 23 W (N ½), S.M.
T 3 S R 20–24 W, S.M.
T 2 S R 24–25 W, S.M.
T 1 S R 24–26 W, S.M.
T 1 S R 27 W (sections 1–6, 8–15, 23–25), S.M.
T 1 S R 28 W (sections 1–6), S.M.
T 1 S R 29 W (sections 1–6), S.M.
T 1 N R 24–29 W, S.M.
T 2 N R 24–30 W, S.M.
T 3 N R 28–30 W and 31 W (E½), S.M.
T 4 N R 30 W and 31 W (E ½), S.M.

B. The Secretary, CIRI and the State recognize that there are nationally significant resources in the Lake Clark area. Management of this area should be flexible and recognize the scenic, recreational, and inspirational resources that should be preserved as well as State and local interests including subsistence and sport hunting.

VII. A. In fulfillment of its obligation to equitably reallocate acreage among villages pursuant to section 12(b) of the Act, CIRI shall allocate section 12(b) selections to the following areas:

1. Four and one-half townships in the Talkeetna Mountain withdrawal, provided that such selections shall be compact and contiguous to 12(a) selection in said withdrawals and 12(a) overselections shall be selected first.

2. All lands that will not otherwise be conveyed to the villages under 12(a) on the Iniakin Peninsula;

3. To the extent necessary to fulfill any remaining 12(b) entitlement lands within the following:

T 7 S, R 25 & 26 (Except Secs. 29–31) W, S.M.
T 6 S, R 25 W and 26 (E½) W, S.M.
T 5 S, R 25 W, S.M. (except sections 18, 19, and 30).
T 4 S, R 24 W (S½), S.M.
T 4 N, R 19 W, S.M.
T 4 N, R 20 W (E½) S.M.
T 4 N, R 18 W (W½) S.M.
T 3 N, R 17–20 W, S.M.
T 3 N, R 21 W (Secs. 31–36, and 25–30 in the Tuxedni River Watershed), S.M.
T 2 N, R 18–20 W, S.M.
T 2 N, R 21 W (North and East of the Tuxedni River and Bay), S.M.

B. By mutual consent of the Secretary and CIRI, Village Corporations within the Region may exchange selections or selection rights under section 12 of ANCSA for acres, or acre/equivalents contained in the pools established out in paragraph I–C(2)(a) of this document.

C. Up to two townships without the exterior boundaries of Cook Inlet Region, to be mutually agreed upon by the Secretary, CIRI, and

the State, shall be made available for 12(b) selection. To the extent acreage is allocated to a Native village pursuant to this subparagraph C, the village must have an equal amount of acreage, in section units, from 12(a) selections in the hereinafter described acres on an acre-for-acre basis outlined in this subparagraph in the out of Region townships identified in this paragraph:

T 4 S, R 23 W ($N\frac{1}{2}$) S.M.
T 3 S, R 20, 21, and 23 W, S.M.
T 2 S, R 19–21 W, S.M.
T 1 S, R 19–21 W. S.M.
T 1 N, R 20 W, S.M.

Provided that should the respective village not have any 12(a) selections in the above, 12(a) selection for the following shall be traded under the provision of this paragraph:

T 2 N, R 18–21 W, S.M.
T 3 N, R 18–20 W, S.M.
T 4 N, R 19–21 W, S.M.
T 5 N, R 19–20 W, S.M.

VIII. A. CIRI and the Secretary shall publicly support the establishment of a unit of the National Park System in the Lake Clark area including those lands withdrawn under section 17(d)(2) of ANCSA and those lands described in paragraph VI–A of this agreement. The Secretary and CIRI shall also agree to seek a provision in said legislation that would provide that before entering into any contract arrangement to provide new revenue producing services within the proposed Lake Clark Unit of the National Park System within the boundaries of the Cook Inlet Region, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days. CIRI and the Secretary shall seek legislation that provides that the United States may acquire lands selected by Village Corporations within the boundaries of the Lake Clark unit established by that legislation, but only with the consent of the appropriate Village Corporation.

B. CIRI and the Secretary shall publicly support the establishment of the Caribou Hills, Swanson River, Mystery Creek, and Andy Simons Wilderness Areas within the Kenai National Moose Range. CIRI and the Secretary shall seek a provision in such legislation that would provide that before entering into any contract or agreement to provide new revenue producing services within the Kenai National Moose Range, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days.

IX. Lands conveyed to CIRI and/or its Village and Group Corporations in accordance with this document, notwithstanding their source (whether federal or state), shall upon conveyance to CIRI and/or the appropriate Village or Group Corporation, be considered and treated as conveyances under and pursuant to ANCSA, except as may be expressly provided otherwise in this document.

X. As soon as practicable after any estate or interest in federal lands to be patented to CIRI in accordance with this document is identified,

CIRI and the Secretary shall review all leases, contracts, permits, rights-of-way and easements covering or concerning such estate or interest to determine whether the administration thereof may be waived by the Secretary, in his discretion, in accordance with the provisions of section 17(g) of ANCSA.

XI. Effective the date that State lands to be conveyed to the United States for CIRI are designated by CIRI pursuant of paragraph II of this document, the State, if so authorized, shall place all revenues received from such lands in escrow to be transferred to the Region when appropriate. The administration of all leases, contracts, permits, rights-of-way and easements prior to the conveyance of such lands to the United States shall be by the State, except that all decisions concerning modification, conversion, renewal or appraisal of such interests will be with the concurrence of the Region. Effective the date of conveyance of such lands from the State to the Secretary, the State shall waive in favor of CIRI administration of all leases, contracts, permits, rights-of-way and easements totalling embraced by such lands. The State shall give timely written notice of the change of ownership and administration to the holders of rights on such lands.

XII. The responsibilities of and benefits accruing to the Secretary, the State and CIRI under this document shall become binding only when such legislation as is necessary has been enacted. Upon passage of such legislation, CIRI and all plaintiffs/appellants shall, with the consent of the Secretary, dismiss their pending appeal in *Cook Inlet Region vs. Kleppe*, No. 75-2232, (9th Cir.) by executing and filing pursuant to Rule 42(b) of the Federal Rules of Appellate procedure an agreement that the proceeding may be dismissed.

XIII. A. For the purposes of this document, a township shall be considered 23,040 acres.

B. The words "land" and "lands" as used in this document shall not include properties owned by the State of Alaska under section 6(m) of the Alaska Statehood Act and the Submerged Lands Act.

Appendix A

T. 1 N., R 11 W S.M.

Secs. 1–4, 9–12, 16, W½S17—comprising approx. 6,080 acres, more or less

T. 2 N., R 11 W S.M.

Sec. 9, approx. 70 acres in the SW¼ lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 16, approx. 480 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 21, all.

Sec. 22, approx. 130 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 27, approx. 330 acres comprising all moose range lands in this section lying west of the high water mark on the west bank of the Kasilof River and those lands in this section lying south and west of the high water line on the south and west shore of Tustemena Lake.

Sec. 28, all.
Sec. 33, all.
Sec. 34, approx. 600 acres comprising all moose range lands in this section lying south and west of the high water line on the south shore and west shore of Tustemena Lake.
Sec. 35, approx. 290 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.
Sec. 36, approx. 360 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.
Comprising approximately 4,160 acres, more or less.

APPENDIX B

APPENDIX B–1

82,560 acres of the specified mineral estate to be selected from the following described lands:*

Priority

1—T. 8 N., R. 9 W: Secs. 1–8; Sec. 9 excluding E/2 SE/4, NW/4 SE/4, SE/4 NE/4; Sec. 10 excluding SW/4, S/2 SE/4, NW/4 SE/4, S/2 NW/4, NW/4; Secs. 11–14; Sec. 16 W/2; Secs. 17–20; Sec. 21 excluding NE/4, E/2 NW/4, NE/4 SW/4, N/2 SE/4, SE/4 SE/4; Secs. 23–26; Sec. 27 excluding N/2, SW/4, W/2 SE/4; Sec. 28 excluding SE/4, E/2 SW/4, E/2 NE/4, SW/4 NE/4; Secs. 29–31; Sec. 32 excluding S/2 SE/4, NE/4 SE/4, Sec. 33 excluding S/2, NE/4, S/2 NW/4, NE/4 NW/4; Sec. 34 excluding W/2, W/2 NE/4; Secs. 35–36–comprising approx. 18,440 acres.

1—T. 8 N., R. 10 W.: Secs. 1; 12–14; 23–26; 32–36–comprising approx. 7,680 acres.

1—T. 7 N., R. 9 W.: Sec. 3, E/2; Sec. 5 excluding S/2, NE/4; Secs. 6; 7; 8 excluding E/2, E/2 SW/4, E/2 NW/4, NW/4 NW/4; Sec. 10 excluding W/2 SW/4, W/2 NW/4, NE/4 NW/4; Sec. 14 excluding NE/4; Sec. 15; Sec. 16 excluding NW/4, N/2 NE/4, SW/4 NE/4; Sec. 17 excluding NE/4 NE/4; Secs. 18–36–comprising approx. 16,560 acres.

1—T. 7 N., R 10 W.: Secs. 1–5; 7–25; Sec. 26 excluding W1/2 SW1/4; Sec. 27 excluding S1/2 N1/2; Sec. 28 excluding S1/2 NE1/4, SE1/4, E1/2 SW1/4; Secs. 29–32; Sec. 35 excluding W1/2, S36 comprising approx. 19,920 acres.

2—T. 6 N., R 10 W.: Sec. 1; Sec. 2 excluding W/2 NW/4; Sec. 4 excluding N/2, SE/4, E/2 SW/4; Sec. 5–8; Sec. 9 excluding N/2 NE/4; Sec. 12; 16–17; 20–21–comprising approx. 7,600 acres.

4—T. 7 N., R 11 W., Sec. 23–26; 35; 36–comprising approx. 3,840 acres.

3—T. 6 N., R 11 W., Sec. 1–2; 11–14–comprising approx. 3,840 acres.

3—T. 10 N., R 7 W., Sec. 19–21; 28 (N/2); 29–32–comprising approx. 4,800 acres.

*These lands total approximately 82,080 acres (128 townships). Any unselected portions of the above described lands shall be first priority selection for in-lieu selections from Appendix B–2 below.

APPENDIX B–2

Up to 138,240 acres (6.0 townships) of specified mineral in lieu estate to be selected from the following described lands by priority ranking and in the order listed.

Priority

2—T. 9 N., R 9 W.: Sec. 13; 23 excluding SE/4 SE/4; Sec. 24 excluding W/2 SE/4, SW/4; Sec. 25 excluding W/2 E/2, W/2; Sec. 26 excluding E/2 E/2; Sec. 27; Sec. 31 E/2; Sec. 32–35; Sec. 36 excluding W/2 NE/4, NW/4, and N/2 SW/4–comprising approx. 6,120 acres.

3—T. 9 N., R 8 W.: Sec. 1–5; 7–36–comprising approx. 22,400 acres.

2—T. 6 N., R 9 W.: Sec. 1–17; 20–29; 34–36–comprising approx. 19,200 acres.

3—T. 8 N., R 8 W.: All-comprising approx. 23,040 acres.

2—T. 4 N., R 10 W.: Sec. 9–10; 13–36–comprising approx. 16,640 acres.

2—T. 4 N., R 11 W.: Sec. 25; 36-comprising approx. 1,280 acres.

3—T. 1 N., R 11 W.: Sec. 17 (E/2); Sec. 21–28; Sec. 33–36-comprising approx. 6,720 acres.

3—T. 3 N., R 11 W.: Sec. 1; 12–15; 22–27; 34–35–comprising approx. 8,320 acres.

3—T. 3 N., R 10 W.: Sec. 1–30–comprising approx. 19,200 acres.

3—T. 4 N., R 9 W.: Sec. 2 excluding SE/4; 3–10; 11 excluding E/2; Sec. 14 excluding E/2; 15–20; 21 excluding SE/4; 29–34–comprising approx. 12,480 acres.

APPENDIX C

If CIRI has on or before January 12, 1976 presented evidence satisfactory to the State that the villages of Kink, Chickaloon, Alexander Creek, Ninilchik and Salamatof have withdrawn selection applications for and relinquished all claims to land in the Lake Clark, Lake Kontrashibuna and Malchatna River areas, the State shall convey under paragraph II of this document to the United States for reconveyance to CIRI all of the state lands identified or to be identified in this Appendix C. All conveyances of lands made in accord with this document shall pass all of the State's right, title and interest in the lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway or other rights-of-way may be reserved to the State.

1. Acreage from each of the five pools identified in this paragraph in the amounts therein set forth. Out of each such pool, the identity of the required acreage shall be determined to the extent possible by mutual agreement of the State and CIRI. For so many of the required acres as have not been so determined by agreement in each pool within eighteen months following implementation of this document, those remaining required acres shall be identified by CIRI's selecting acreage in that remaining amount from an array of 1½ that many acres within the pool, said array to be identified to CIRI by the State.

A. *Point McKenzie.*—3,200 acres must be identified from state lands within the following areas:

T 15 N, R3 W through 5W, S.M.
T 14 N, R4 W through 5W, S.M.
T13 N, R4 W S.M. (North of Knik Arm)

B. *Knik-Willow Pool.*—4,480 acres must be identified from state lands within the following areas:

T 16 N through 18 N, R 2W through 5W, S.M.

C. *Kashwitna Pool.*—38,400 acres must be identified from state lands within the following areas:

T 21 N through 25N, R3 and 4W, S.M. (or other nearby lands).

D. *Chickaloon Pool.*—4,800 acres must be identified from state lands within the following areas:

T 19 N, R3 E through 5E, S.M.
T 20 N, R4 E through 7E, S.M.

E. *Kenai Pool.*—115,200 acres must be identified from state lands on the Kenai Peninsula.

Provided however that the State may with CIRI's concurrence supplant acreage otherwise to be identified from the Kenai pool in subparagraph E on an acre-for-acre basis with lands near Alexander Creek, Ninilchik or Salamatof. Supplanting lands near any one of these villages may not exceed in acreage that number of acres to which the State is obligated under paragraph 3 to provide in respect of each of those three villages.

2.(a) Thirteen and one-half townships of lands in the Beluga Area Townships listed in this paragraph. The identity of those lands shall be determined by CIRI within eighteen months following the implementaiton of this document by nomination of compact units no less than ¼ township in size lying along township lines, provided that where constrained by selection pool boundaries or water bodies they may be smaller: *Provided*, However that if Tyonek Corporation desires to trade the surface estate it holds in the Kenai National Moose Range for State surface lands within the vicinity of its village lands but within CIRI's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRI's selection pool lands, CIRI shall select an equivalent acreage of other surface estate from within its selection pool.

T. 16 N., R. 14 W., S.M.:
T. 16 N., R. 13 W., S.M.:
T. 16 N., R. 12 W., S.M., Secs. 7, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36:
T. 16 N., R. 11 W., S.M., Secs. 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36:
T. 15 N., R. 14 W., S.M.:
T. 15 N., R. 13 W., S.M.:
T. 15 N., R. 12 W., S.M.:
T. 15 N., R. 11 W., S.M.:
T. 15 N., R. 10 W., S.M., W½, excluding Sec. 1:
T. 14 N., R. 15 W., S.M.:
T. 14 N., R. 14 W., S.M.:
T. 14 N., R. 13 W., S.M., W½:
T. 14 N., R. 11 W., S.M.:

T. 14 N., R. 10 W., S.M., W½;
T. 13 N., R. 15 W., S.M.;
T. 13 N., R. 14 W., S.M.;
T. 13 N., R. 10 W., S.M., E½ excluding lands east of the west bank of the Beluga River;
T. 12 N., R. 15 W., S.M.;
T. 12 N., R. 14 W., S.M., excluding Secs. 23, 24, 25, 26, 29, 31, 32, 33, 36;
T. 12 N., R. 10 W., S.M.;
T. 11 N., R. 13 W., S.M., Secs. 12, 13 excluding W½SW¼; 24 NE/4 NE/4.
T. 11 N., R. 12 W., S.M., Secs. 18, 19 excluding SW¼, S½ SE/4; 20.

(b) Provided, However, that the following described lands shall *not* be available for CIRI's selection of *subsurface* estate:

Beluga

T. 13 N., R. 10 W., S.M., Secs. 11, E-½; 12, 13, 14, 22, 23, 24, 25, 26, 27, 34, 35, 36.
T. 12 N., R. 10 W., S.M., Secs. 2, 3, 4, 5, 8, 9, 10.

Nicolaick

T. 11 N., R. 12 W., S.M., Secs. 16, SW-¼; 17, SW-½; 18, SE-¼; 19, E-½, E-½ W-½; 20; 21, W-½; 28, W-½; 29, 30, 31, 32.

(c) The State shall provide a floating, public, 300 foot wide transportation easement from T. 13 N., R. 14 W., S.M. to the shore of Cook Inlet in T. 11 N., R. 12 W., S.M. Said easement to be determined upon the ground at such future time as a need exists and there are adequate field data available upon which the State may finally plan and locate the corridor.

3. Lands in an amount equal to ¼ of the acres to which each of the villages of Knik, Chickaloon, Alexander Creek, Ninilchik, and Salamsatof are or would be entitled under ANCSA Sec. 12(a), under selection applications on file with the BLM as of July 18, 1975, in the Lake Clark, Lake Kartrashibuna and Mulchatna River areas. Each acre identified for conveyance by the State hereunder must be located within or near the 11(a)(1) withdrawal of the village to which the displaced ANCSA acreage to which that acre corresponds would otherwise have passed under ANCSA. The lands so identified in respect to displaced acres attributable to Alexander Creek and Salamstof shall be conveyed by the State if and only if the village to which the displaced acres are attributable retains its village eligibility status under ANCSA.

Appendix D

Lands in the Lake Iliamna Area and in the Nushagak River and Lake Clark Drainages

Paragraph III(A)(1))

I. The Secretary shall convey to the State at least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d)(2) of the Alaska Native Claims Settle-

ment Act in the Lake Iliamna area and within the Nushagak River or Lake Clark drainages near lands heretofore selected by the State.

II. The following townships shall be conveyed to the State as part of the minimum of 22.8 townships to be conveyed to the State from lands identified in paragraph I.

T 4N, R 36 W, S.M.
T 3N, R 36 W, S.M.
T 2N, R 36 W, S.M.
T 1N, R 36 W, S.M.
T 1S, R 37 and 38 W, S.M.
T 2S, R 37 and 38 W, S.M.
T 3S, R 37 and 38 W, S.M.
T 4S, R 37–39 W, S.M.
T 5S, R 40–42 W, S.M.
T 6S, R 40 W, S.M. (except sections 21–28, 33–36).
T 6S, R 41 and 42 W, S.M.
T 7S, R 42 W, S.M. (secs. 3–10, 15–18).

III. For each acre of valid village 12(a) selections relinquished in the Lake Clark, Lake Kontrash/buna and Mulchatna River areas pursuant to paragraph II of the document to which this forms an Appendix, the Secretary shall convey to the State, on an acre for acre basis, lands from within the 17(d)(2) area described in Paragraph I up to a total of 4.2 townships.

IV. To the extent that lands to be conveyed to the State pursuant to Paragraphs II and III above are not specifically identified in this Appendix, they shall be identified by mutual consent of the State and the Secretary from lands described in Paragraph I within 60 days of the date the State becomes bound to this document, or within 60 days of the date that any entitlement vests in the State pursuant to Paragraph III of this Appendix, whichever shall come first.

V. All lands granted to the State of Alaska pursuant to this Appendix D shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

Appendix E

Lands in the Talkeetna Mountains, Kamishak Bay and Tutna Lakes Areas

(Paragraph III(A)(2))

The Secretary shall convey to the State the following described lands, subject to valid village selections under section 12(a), but not 12(b), of ANCSA.

T 22N, R 2W, S.M.
T 23N, R 2W, S.M.
T 24N, R 1 and 2 W, S.M.
T 26N, R 1 and 2 W, S.M.
T 27N, R 2W, S.M.

T 29N, R 2W, S.M.
T 7S, R 26W, S.M. secs. 29–31
T 7S, R 27–29 W, S.M.
T 8S, R 26–29 W, S.M.
T 9S, R 26–30W, S.M.
T 10S, R 28–30 W, S.M.
T 11S, R 28–30 W, S.M.
T 4N, R 33–35 W, S.M.
T 3N, R 34 and 35 W, S.M.
T 2N, R 34 and 35 W, S.M.

Appendix F

Far North Bicentennial Park

(Paragraph III B)

T 12 N, R 3 W, S.M.:
Section 1.
Section 2.
Section 3 (except SW ¼).
Section 10 (except S ½).
Section 11 (except S ½).
Section 12.

T 13 N, R 3 W, S.M.:
Section 34 (except N ½ NE ¼ NE ¼)
Section 35 (except NW ¼ NW ¼, N ½ SW ¼ NE ¼ NE ¼)
Section 36 (except NE ¼ SE ¼ SE ¼ NE ¼)

Appendix G

Talkeetna Mountains—Koksetna River Lands

(Paragraph III(c))

The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described below.

T 4N, R 31 W, S.M. (W ½).
T 4N, R 32 W, S.M.
T 3N, R 31 W, S.M. (W ½).
T 3N, R 32 and 33 W, S.M.
T 2N, R 31–33 W, S.M.

Subject to valid village 12(a) and 12(b) selections under ANCSA, the following lands located south of the Susitna River:

T 29N, R 11E—1 W, S.M.
T 30N, R 11E—2 W, S.M.
T 31N, R 9E—1 W, S.M.

Edwardsen v. *Morton*

During the Subcommittee hearings H.R. 6644, the Committee was made aware of an issue which may have long-range significance for the Native land claims settlement contained in the Settlement Act.

This issue concerns the decision in the case of *Edwardsen* v. *Morton* (369 F. Supp. 1359), 1973. The Settlement Act had as its principal purpose the provision of a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." (Section 2(a)). On April 19, 1973, Judge Oliver Gasch, the District Court for the District of Columbia, in ruling on a motion by the defendants for summary judgment in *Edwardsen*, held if the Native plaintiffs of the Arctic Slope of Alaska "were in fact disturbed in their use and occupancy by trespassers, i.e., by any parties coming onto the land except for those entering under Congressional authorization, then there accrued a cause of action in tort against the trespassers and a cause of action for trespass and breach of fiduciary duty against Federal officers authorizing such trespass." 369 F. Supp. at 1378–1379. The Court continued, "It is not at all clear that the Settlement Act bars litigation of plaintiffs' claims relating to the alleged trespasses even though they are linked to claims of aboriginal title. * * * In any event, a construction of (the Act's provisions) to bar claims relating to pre-Settlement Act trespasses would appear to create constitutional infirmities in the Act which are better avoided if a constitutionally sound construction does not violate clearly expressed legislative intent." 369 F. Supp. at 1379. Accordingly, Judge Gasch refused to hold "that a later Act of Congress [Settlement Act] could wipe out all claims against any person * * * simply because Congress has decided to extinguish aboriginal title." Id.

Pursuant to a stipulation entered into by the parties in August of 1974, and approved by the Court in October, 1974, further proceedings in the *Edwardsen* case were held in abeyance pending an investigation by the Department of the Interior of the extent of the trespass claims involved. That investigation has been completed and the United States, acting as trustee for the Natives involved, has filed suit in the United States District Court for the District of Alaska against several corporate and individual defendants, including the State of Alaska, for damages arising from such trespasses.

It is not clear just what impact a final decision upholding the *Edwardsen* ruling might have on the Settlement Act and the orderly development of the State of Alaska. As a consequence, the Committee determined not to deal with that critical issue in H.R. 6644. This decision should not be interpreted to mean that the Committee finds the ruling to be either correct or incorrect with respect to the congressional intent in barring or not barring such claims. At this point, that is a judicial matter.

However, the Committee intends to follow the course of this litigation and the impact that it has or may have on the Settlement Act and the development of lands and resources in Alaska. Should circumstances warrant, the Committee then will consider the matter further.

Inflationary Impact Statement

The Federal expenditures and costs authorized and required by this legislation are relatively small and would have no significant inflationary impact.

Cost and Budget Act Compliance

The bill authorizes appropriations of $25,000 in section 12(g) and $1,600,000 in section 14.

In addition, extension of the Land Use Planning Commission by section 7 for three years will mean an extension of the appropriation authorized by section 17(a)(9)(B) of the Settlement Act which is for $1,500,000 for each fiscal year.

Indirect costs can be attributed to the payment of interest on the escrow account authorized by section 2; the payment of interest on the Alaska Native Fund authorized by section 5; and loss of tax revenue from the exemption contained in section 13. It would be impossible to ascertain such indirect costs at this time, but they would be relatively minimal.

Oversight Statement

The development and consideration of the bill, H.R. 6644, was in large part due to the oversight activities of the Subcommittee on Indian Affairs. The Subcommittee held oversight field hearings on the Settlement Act in Alaska in the 93rd Congress and again in August of 1975.

Committee Recommendation

The Committee on Interior and Insular Affairs, by a voice vote, recommends enactment of H.R. 6644, as amended.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Act of December 18, 1971 (85 Stat. 688)

* * * * * * *

Sec. 7. (a) For purposes of this Act, the State of Alaska shall be divided by the Secretary within one year after the date of enactment of this Act in twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by operations of the following existing Native associations: . . . . Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved [.] *: Provided, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: Provided further, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreason-*

able or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.

* * * * * * *

(b) . . .

SEC. 16. (a) * * *

(b) During a period of three years from the date of enactment of this Act, each Village Corporation for the villages listed in subsection (a) shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such township. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Land Survey System. *Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h)(8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas.*

(c) * * *

(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby withdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: Provided, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h)(8) of this Act: Provided further, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934, (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250); all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: Provided further, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in

and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection.

* * * * * * *

SEC. 17. (a) * * *

[(10) On or before May 30, 1976, the Planning Commission shall submit its final report to the President of the United States, the Congress, and the Governor and Legislature of the State with respect to its planning and other activities under this Act, together with its recomendations for programs or other actions which it determines should be taken or carried out by the United States and the State. The Commission shall cease to exist effective December 31, 1976.]

(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and Legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim comprehensive report covering the above matter shall be so submitted on or before May 30, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.

* * * * * * *

SEC. 21. (a) * * *

(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

* * * * * * *

SEC. 22. (a) * * *

[(f) The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange lands or interests therein in Alaska under their jurisdiction for lands or interests therein of the Village Corporations, Regional Corporations, individuals, or the State for purpose of effecting land consolidations or to facilitate the management or development of the land. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.]

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations for the Cities of Juneau, Sitka, Kodiak and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the mangament or development of the land, or for

other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: Provided, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

SEC. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74) and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.

* * * * * * *

SEC. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1964, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded.

* * * * * * *

SEC. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: Provided, That the rights accorded under Alaska law to dis-

senting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders which participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: Provided, That where a village Corporation organized pursuant to section 19(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.".

Departmental Reports

The Committee received two reports from the Department of Interior; one dated May 12, 1975 which addressed H.R. 6644, as originally introduced, and one dated December 10, 1975, which addressed the bill as reported by the Subcommittee. In addition, the Securities and Exchange Commission, and the Department of Agriculture commented on the legislation. The letters follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 12, 1975.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 6644, a bill "To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes."

We recommend enactment of H.R. 6644, if amended as suggested herein.

Section 101 of the bill authorizes the Secretary of Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973, deadline for filing applications for enrollment as Alaska Natives. The deadline was established by regulations issued pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688). Under section 101, the Secretary would enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline. The section also provides for the issuance of regional corporation stock to those Alaska Natives enrolled pursuant to this provision as well as the distribution of payments to those Natives enrolled pursuant to this section that are equal to payments made to those Natives originally enrolled. It further states that Natives enrolled pursuant to this provision shall not affect the eligibility status of land entitlement of eligible village corporations, regional corporations, the four named cities, or groups as defined by the Alaska Native Claims Settlement Act.

We strongly support the reopening of the rolls of Alaska Natives eligible to receive benefits under the Alaska Native Claims Settlement Act (ANCSA), and to allow otherwise eligible Alaska Natives who missed the enrollment deadline to enroll. Although we make no apology for the manner in which we handled in a very brief period of time one of the largest enrollment campaigns ever conducted, we recognize that not every eligible Alaska Native learned about the benefits of ANCSA in time to meet the filing deadline of March 30, 1973. Our estimate is that as many as 2,000 otherwise eligible persons had not applied for enrollment by that date. Some of these cases involve substantial equities. For example, some are minors whose guardians neglected to enroll them; others did not receive the enrollment forms or were under misapprehensions concerning their ancestry.

We are also in agreement with the provisions of section 101 that would not allow the addition of these late enrollees to result in changing the status of those villages and groups whose eligibility status was determined pursuant to the figures that were established by the roll certified by the Secretary of the Interior on December 18, 1973. That roll would, under the provision of section 101, establish the proportionate shares of villages, groups, and regional corporations as to their

land entitlements and the new enrollment authorized by this amendment would not affect the proportionate share, nor would it be used to disqualify a group because it had more than 24 Natives enrolled as a result of the addition of late filers. We question the need for the inclusion of the four named cities, Sitka, Juneau, Kenai, or Kodiak, in this section because their land entitlement is not determined by the number of Natives enrolled to each of these locations. Therefore, we recommend that all reference to the four named cities be omitted.

Section 101 refers to the enrollment deadline of March 30, 1973, as having been established by section 5(a) of ANSCA. That deadline was established by regulation (25 C.F.R. 43h *et seq.*). We recommend that the reference to the authority of section 5(a) of ANCSA be deleted.

Section 102(a) of the bill provides the Secretary of the Interior with authority from and after the date of enactment, to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA in an escrow account until such time as disposition is made of the land and then to transfer them to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected shall be deposited in the U.S. Treasury or paid out as required under law. Section 102(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (25 U.S.C. 162(a)). However, the section specifically prohibits the creation of a trust relationship with regard to the funds authorized for investment and reinvestment by the section.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the creation of the escrow account, we cannot support the provisions of section 102(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 102(b) would establish an unfavorable precedent.

Section 102(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands withdrawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporation or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of con-

veyance to the Natives, thereby making the two payments operative at the same time.

While subsection 102(a) establishes an escrow account, and addresses the issue of the disposition of receipts from activities by the Secretary on lands withdrawn for Native selection but not yet conveyed, it does not clarity certain accounting procedures related to these activities. A system is necessary to accurately relate revenues to specific tracts producing the revenues and tracts selected. To clarify these accounting procedures we recommend the addition of subsections (c) and (d) to section 102.

Subsection 102(c) relates to public easements reserved in any conveyance pursuant to subsection 17(b)(3) of ANCSA. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation has been made in the conveyance, subsection 102(c) would insure that proceeds derived from these subsection 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share:

"(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Alaska Native Claims Settlement Act (85 Stat. 688), from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share."

Without the certainty provided by subsection 102(c), it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation.

Subsection 102(d) will clarify accounting procedures under ANCSA, so that although most contracts, leases, permits, rights-of-way and easements may be paid on lands withdrawn for Native selection on an annual basis, payment to be made at the begining of the year, if a conveyance should be made in the middle of the year, the grantee would receive proportional income from such contracts, leases, permits, rights-of-way, and easements:

"(d) Any and all income on all earnings from contracts, leases, permits, rights-of-way, or easements issued for the surface or minerals covered under the conveyance prior to the issuance of such conveyance under the Alaska Native Claims Settlement Act (85 Stat. 688), shall be paid to the grantee of such conveyance on that portion of the lands conveyed pro-rated from the date of enactment of this Act."

Subsection 102(a) refers to "any and all proceeds derived" from certain less-than fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. The language of subsection 102(a) should be amended in order to exempt these two payments from the application of this provision.

Section 102 should contain a provision parallel to that of section 26 of ANCSA. We recommend that a new subsection (e) be added:

"(e) To the extent that there is a conflict between the provisions of subsection (2) of this section and any other Federal laws applicable to Alaska, the provisions of subsection (a) of this section shall govern.

Any payment made to any corporation or any individual under the authority of subsection (a) of this section shall not be subject to any prior obligation under sections 9(d) and 9(f) of the Alaska Native Claims Settlement Act (85 Stat. 688)."

Section 103 of the bill would add a new section 28 to ANCSA. Section 28 would exempt until December 31, 1976, any corporation organized pursuant to ANCSA from the provisions of the Investment Company Act of 1940 (54 Stat. 789, as amended). We defer in our views concerning the provisions of section 103 of H.R. 6644 to those of the Securities and Exchange Commission who, we understand, will shortly submit its report to the Congress.

Section 104 of this bill would add a new section 29 to ANCSA. New subsection 29(a) would provide that payments and grants made under ANCSA are compensation for extinguishment of claims to land by Alaska Natives and are not to be deemed to substitute for any governmental program that would otherwise be available to Alaska Natives as citizens of the United States and of the State of Alaska.

New subsection 29(b) of ANCSA would specifically exempt any benefits an Alaska Native might receive pursuant to ANCSA from consideration in determining the eligibility of any Native household to participate in the food stamp program under the Food Stamp Act of 1964.

With regard to the provisions of section 104 of this legislation, we have not yet formulated a position and, therefore, we are not able to offer comments at this time. This provision is currently under examination within the Administration.

Section 105 of the legislation provides that the funds deposited in the Alaska Native Fund under ANCSA are to be considered funds held in trust by the United States Government for Indian tribes pursuant to the provisions of Section 1 of the Act of February 12, 1929 (25 U.S.C. 161(a)).

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of Natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ."

Under section 106, except as specifically provided in H.R. 6644, the provisions of ANCSA are fully applicable to this legislation and this bill shall not alter or amend any such provisions. We have no objection to this section.

Section 107 of the bill authorizes mergers or consolidations among regional and village corporations within the same region and would apply only to corporations authorized pursuant to sections 7 and 8 of the Alaska Native Claims Settlement Act. All mergers would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations. Section 107 would also allow the subsequent merger or consolidation of merged corporation with each other, provided they are in the same region. The mergers authorized by corporation shareholders either before or after passage of this bill would be covered and could take place under the provisions of the bill. This provision would allow a merger that was approved by corporation stockholders with the merger vote contingent upon enactment of legis-

lation of the type set out in this bill to be completed upon enactment of the bill. This provision is necessary because of ongoing efforts to merge village corporations, particularly in the NANA Region of Alaska.

The section gives to the merged corporation, upon the effectiveness of the merger, all rights and benefits that ANCSA confers upon the individual corporations and also makes them subject to all the restrictions and obligations that were made applicable to the individual corporations by the Alaska Native Claims Settlement Act. The section specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Alaska Native Claims Settlement Act.

Subsection (c) deals specifically with the rights of enrolled Alaska Natives who are shareholders of a regional corporation but are not residents of any of the villages in that region. Section 7(m) of the Alaska Native Claims Settlement Act gives those Alaska Natives a right to receive dividends that represent their pro-rata share of the dividends paid to village corporations when the regional corporations make distributions to the village corporations under secton 7(j) of the Settlement Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of this bill or any other law, no merger or consolidation of corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Since enactment of the Settlement Act, many of the village corporations have found that they are too small to effectively manage their resources and responsibilities under the provisions of ANCSA. In the remote areas of Alaska, there is a shortage of trained managers who can run the many corporations, a demand that would be lessened by the bringing together of several of the smaller villages into one management unit. It would also be easier for the regional corporations to deal with one or two village corporations rather than ten or fifteen. The multiplicity of villages also dissipates the funds that are distributed to the villages, funds that can be used for improvements for Native people rather than being paid out to large numbers of professional managers necessitated by the large number of villages.

This section is needed to allow mergers or consolidations to take place because the Alaska Native Claims Settlement Act prohibits for a period of twenty years from the date of its enactment the alienation of corporation shares issued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation. H.R. 6644 will modify this restriction on alienation sufficiently to authorize mergers and consolidations.

In our judgment this section offers sufficient safeguards and offers

the Alaska Natives the opportunity to bring about mergers and consolidations that will better enable them to manage the benefits they are receiving under ANCSA. We recommend its enactment.

Section 108 extends the life of the Joint Federal-State Land Use Planning Commission, created by section 17(a)(10) of ANCSA, to June 30, 1979. We have no objection to the provisions of this section.

Section 109 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation. Section 110 of the bill creates a new section 30 of ANCSA which sets out the procedures to be followed by the Secretary of the Interior in carrying out his responsibilities in creating the thirteenth region. These responsibilities include: (1) enrolling therein those Alaska Natives who wish to participate; (2) how the corporation for the thirteenth region shall be created and how its interim Board of Directors is to be selected; (3) the instructions for submission of the articles of incorporation for the thirteenth regional corporation; (4) provisions covering the distributions made from the Alaska Native Fund and the impact of the thirteenth region on that fund; (5) authority to make adjustment in the distributions from the Alaska Native Fund when the thirteenth region enrollment is completed; and (6) the authority of regional corporations to cancel, without any liability, the stock of those of their members who shift their enrollement to the thirteenth region.

While we support the enactment of sections 109 and 110, we recommend that section 110 be amended as suggested herein.

It appears that little purpose would be served in prohibiting a potential enrollee in the 13th region from notifying the Secretary of his decision before the end of 60 days after enactment of this section. A Native should not be punished for immediately notifying the Department of his decision. Therefore, we recommend that the phrase "not less than 60 days nor" be deleted from the new section 30(a) of ANCSA.

In carrying out the provision of ANCSA, some of the time constraints under which the Department has had to operate have been extremely limited. We recommend that the time provided for each Alaska Native to inform the Secretary of his intention be extended.

Further, some Natives attempted to amend their enrollment applications before December 1, 1973, to indicate a change in whether they wished to be enrolled in the 13th region. Section 110 provides in the new section 30(a) of ANCSA that any Native who does not file a change with the Secretary within the 60 to 90 day period must return to the status in his "original enrollment application." It would seem more appropriate to place such Native under the "election last filed," and we recommend that this language be substituted instead.

New section 30(a) requires the Secretary to prepare and certify a "final roll" within 120 days which will supersede the temporary roll authorized by "this subsection." Subsection 30(a) does not authorize a temporary roll. This could result in a construction in subsection 30(a) of reference to the roll of December 18, 1973. New subsection 30(f) of ANSCA created by section 110 of this bill authorizes a temporary roll, and if subsection 30(a) refers to this temporary roll then the word "subsection" should be changed to "section."

The fourth provision of new section 30(a) directs the Secretary to prepare and certify a final roll under that section within 120 days of the section's enactment. New section 30(a) would require a second enrollment campaign in addition to that authorized by section 101 of this legislation. In our judgment, the enrollment requirement upon the Secretary of 120 days after enactment under new section 30(a), running simultaneously with the one year enrollment requirement under section 101, would impose a prohibitive administrative burden. We recommend that the words "Within one hundred and twenty days of the enactment of this section" in the fourth provision of new section 30(a) be amended to read "Within one year of the enactment of this section."

The final provision of new section 30(a) allows the Secretary to incorporate in the final roll authorized here "other changes made by the Secretary in accordance with the Act." The changes presently being made in the roll are not literally "in accordance with the Act" but are changes made on earlier principles of law which have been construed as applicable to the Settlement Act. Therefore, this last phrase should be deleted. The presence of this last sentence raises the possibility of the construction that the temporary roll referred to earlier will be the roll of December 18, 1973. It cannot be expected that all corrections in that roll will be made in time for the applicability of this section.

New Section 30(c) of ANCSA provides the instructions for the submission of the articles of incorporation for the 13th region. The time periods specified are so short for each of the proposed steps that carrying them out will be administratively prohibitive. We recommend these time periods be extended.

New section 30(d) requires that articles of incorporation for the 13th region be approved in accordance with subsection 7(c) of the Settlement Act. Section 109 of this bill amended that section and the amended language is inapplicable to the last sentence of section 30(d). The reference intended is probably to that of section 7(c) of ANCSA.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

STANLEY B. DOREMUS,
Acting Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 10, 1975.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This Department would like to offer its views on H.R. 6644, as reported by the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs on September 30, 1975. H.R. 6644 is a bill "To provide, under or by amendment of

the Alaska Native Claims Settlement Act, for the later enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes."

We recommend enactment of H.R. 6644 as reported by the Subcommittee on Indian Affairs if amended as suggested herein.

SECTION 1

Section 1(a) of the bill authorizes the Secretary of the Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973, deadline for filing applications for enrollment as Alaska Natives. The Secretary would then enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act (ANCSA) except for their failure to meet the March 30, 1973, deadline.

Further, section 1(a) sets forth the procedures for making all the changes required by the amendments to the roll resulting from the new enrollments thereunder, specifically with regard to the issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Section 1(a) also provides that no land entitlements of regions, villages or groups, or eligibility of villages or groups, will be affected by the changes in enrollment thereunder. We support the provisions of section 1(a).

Under section 1(b), thee Secretary is authorized to poll Natives enrolled to villages or groups not recognized as village corporations under ANCSA, and which are located within the boundaries of former reserves where village corporations elected surface and subsurface rights under section 19(b) of ANCSA. The Secretary may allow these Natives to enroll to a section 19(b) village corporation, or enroll on an at-large basis to the region in which the village or group is located.

On St Lawrence Island, where the village corporations of Gambell and Savoonga elected to take title to their former reserves, approximately 20 Natives enrolled to places or the Island itself other than to Gambell or Savoonga. Therefore, they are not members of either village, and are not entitled to benefits received by these village corporations under ANCSA. These individuals are currently shareholders at-large in their regional corporation. Under section 1(b) they would be given the opportunity to enroll in one of the villages, or remain shareholders at-large in their region. The language of section 1(b) is general and would apply to other situations similar to St. Lawrence Island.

While we support the provisions of section 1(b), we would note that St. Lawrence Island is not a village or group, but a place. This section would better serve its purpose if the words "Native villages or Native groups" on page 3, line 6, were deleted, and the word "places" substituted instead, and the words "village or group is" on line 13, page 3, were deleted, and the words "those places are" substituted. Otherwise, the bill may not resolve the problem of the major category of people it was designed to help—the Natives enrolled to places on St. Lawrence Island.

Section 1(b) is unclear as to whether the Secretary may allow these individuals to enroll to the section 19(b) villages at their option, or at the option of the villages concerned. We construe section 1(b) to mean the former.

Further, we would note that the individuals eligible to elect under section 1(b) are currently enrolled at-large to their region and, if they do not elect to enroll to a section 19(b) village corporation, they will remain at-large shareholders. Accordingly, we recommend that the words "to enroll" on page 3, line 12 be deleted and the words "remain enrolled" be substituted in their place.

We would also note that section 1(b) may impact the Regional entitlements under sections 12(b) and 14(h)(8) of ANCSA by changing the Regional population factors.

While we support the provisions of sections 1 (a) and (b), we cannot support the provisions of section 1(c) and recommend that it be deleted.

Section 1(c) directs the Secretary to redetermine the places of residence, as of April 1, 1970, for those Natives who, in the enrollment process, designated their domicile as a place that was later determined ineligible as a Native village or group on grounds which include an insufficient number of residents. Such redetermined residence shall be such Native's place of residence as of April 1, 1970, for all purposes under ANCSA.

We oppose the provisions of section 1(c) for a number of reasons: First, the Natives affected by section 1(c) theoretically designated their residence properly, and this provision would authorize forum shopping to give these Natives a chance to circumvent the consequences of their original choice. These Natives would not only qualify for additional benefits, but would dilute the benefits of those Natives enrolled in those villages or groups to which these section 1(c) Natives would redetermine their residence. In fact, under this interpretation of section 1(c), those Natives who redetermine their residence would receive a greater per capita distribution than those Natives who enrolled properly in the beginning.

Second, section 1(c) discriminates among Natives who are at-large shareholders in a region. Many Natives designated their place of residence on their enrollment application at a location that did not qualify as a Native village under the provisions of ANCSA. Many of the locations failed to qualify as villages because of an insufficient number of enrollees, while other locations failed to qualify for other reasons. All Natives whose place of enrollment failed to qualify as a village were enrolled as at-large members of their respective Regional Corporation. Therefore, those at-large shareholders who enrolled to a location determined ineligible as a village because of an insufficient number of residents get a second chance, while those at-large shareholders who enrolled to a location found ineligible as a village on other grounds, do not. This result is inequitable.

Third, many of the villages determined ineligible by the Department have appealed the determination, so the issue of eligibility is presently in litigation. Further, the Department has not yet determined the eligibility of any Native groups. Therefore, section 1(c) is premature and speculative.

Finally, section 1(c) is unclear as to whether the section applies only to those Natives enrolled to villages found ineligible because of insufficient number of residents, or to villages also found ineligible on other grounds.

SECTION 2

Under section 2(a), the Secretary is given the authority to deposit proceeds received by the Federal government which are derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANSCA in an escrow account until such time as disposition is made of the land and then to transfer such proceeds to the person or entity receiving title to the land. This provision would be effective from either the date of enactment of H.R. 6644 or January 1, 1976, whichever occurs first.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the provisions of section 2(a), we recommend a number of clarifying amendments.

First, on page 5, line 2, we recommend that the words "or January 1, 1976, whichever occurs first," be deleted. To administer the escrow account it will be necessary to develop a system which will accurately relate revenues to the tracts producing the revenues and the tracts selected. If H.R. 6644 is enacted after January 1, 1976, the escrow account will be partially retroactive, and the accounting procedures will present administrative and legal difficulties. Further, the monies derived between January 1, 1976 and the date of enactment of H.R. 6644 may have already been distributed to either the State of Alaska under the Mineral Leasing Act, or to the Alaska Native Fund, and thus expended.

Second, the refernce to section 14(g) of ANSCA on page 5, line 2, is incorrect. These leases, licenses, permits or rights-of-way were not issued pursuant to section 14(g), but, rather, were outstanding at the time of conveyance to the Native Corporation and were reserved by section 14(g). Thus, we recommend that the following language be inserted between the words "to" and "section" on line 4, page 5: "appropriate law and which would be reserved in any conveyance in accordance with."

Third, section 2(a) refers to "any and all proceeds derived" from certain less-than-fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. We recommend that the language of section 2(a) be amended to exempt these two payments from the application of this provision.

Finally, section 2(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands with-

drawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporations or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of conveyance to the Natives, or when the Secretary determines that these lands will not be conveyed to the selecting corporation. Otherwise, the monies in the escrow account may be tied up for a considerable length of time.

While we support the creation of the escrow account, we cannot support the provisions of section 2(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 2(b) would establish an unfavorable precedent.

Section 2(c) relates to public easements reserved pursuant to section 17(b)(3) of ANSCA. Section 2(c) would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. Without the certainty provided by section 2(c), it would be administratively prohibitive to distribute the income to the owners of land covered by the easement reservation.

However, we would note the potential ambiguity with regard to the interpretation of the word "proceeds," in section 2(c). It is unclear whether the term applies to fees derived from permits issued by the U.S. for hauling timber and minerals over these reserved easements, or to the receipts from the sale of the items hauled. Accordingly, we recommend substituting the words "rental and use fees" for the word "proceeds" in section 2(c), line 18, page 6.

Further, we recommend that the words "paid by commercial users for" be inserted right after the term "rental and use fees" on line 18, page 6. It should be recognized that most easements will produce little or no income. However, commercial uses will generate income, which should be made available to the Native owners.

We would also recommend that the period on line 22, page 6, be changed to a comma, and the following words be added: "to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act."

Finally, we would suggest an additional sentence after our amended sentence on line 22, page 6. This sentence reads as follows: "As used in this subsection rental and use fees shall not include road maintenance or other cost-recovery charges levied to a non-Federal user." These costs would not be in the nature of proceeds, but go to the actual cost of maintaining the easement by the United States.

These recommendations are the result of discussions between this Department and the United States Forest Service.

Section 2(d) provides that to the extent there is a conflict between the provisions of section 2 and any other Federal laws applicable to

Alaska, the provisions of section 2 will govern. Further, any payment made to any corporation or individual under section 2(a) of H.R. 6644 shall not be subject to any prior obligations under sections 9(d) or (f) of ANCSA. This Department recommended the addition of a provision to section 2 parallel to that of section 26 of ANCSA in our report on H.R. 6644 as introduced, dated May 12, 1975. This recommendation has become section 2(d) of H.R. 6644 as reported by the Subcommittee on Indian Affairs and we support its enactment.

SECTION 3

Section 3 amends ANCSA to exempt, until December 31, 1991, corporations organized thereunder from the provisions of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities and Exchange Commission Act of 1934. We defer in our views to the Securities and Exchange Commission.

SECTION 4

Section 4(a) amends ANCSA to provide that payments and grants thereunder shall not be deemed to substitute for any governmental programs otherwise available to the Natives as citizens of the United States and of Alaska.

Section 4(b) further amends ANCSA to exempt benefits received by any member of a household under the Settlement Act from being used in a determination of that individual's eligibility to participate in the Food Stamp Act.

The provisions of section 4 are currently under examination within the Administration.

SECTION 5

Section 5 relates to a December 28, 1973, decision by the Comptroller General that the Alaska Native Fund will not bear interest or be eligible for reinvestment by the Secretary pursuant to sections 161a and 162a of title 25 of the United States Code. The actual language of section 5 states that for purposes of 25 U.S.C. 161a and 162a the Alaska Native Fund shall, pending distributions under Section 6(c) of ANCSA, "be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes." Section 5 further provides that nothing in the section will be construed to create or terminate any trust relationship between the U.S. and any corporation or individual entitled to receive benefits under ANCSA.

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ." Although the proviso in section 6(c), on page 14, lines 12–13, there is no definition as to what constitutes "within the boundaries of the Native village." We would note that the majority of Native villages are not municipalities and, therefore, do not have boundaries created by State statute as do other Alaskan communities.

SECTION 7

We have no objection to the provisions of section 7, which would extend the life of the Joint Federal-State Land Use Planning Commission for Alaska to June 30, 1979.

SECTION 8

Section 8 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th Region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation.

With the exception of the savings clause proviso of new section 7(c)(9), we recommend that section 8 be deleted. Pursuant to an order entered October 6, 1975, by the United States District Court for the District of Columbia, the 13th Region has already been established and the 13th Regional Corporation is in the process of being formed. The manner of formation of the corporation is similar to that prescribed by section 8, with the exception of the election of eligible non-resident Alaska Natives to be in or out of the 13th Region. The manner of this election has also been prescribed by the October 6, court order.

Effective October 1, 1975, this Department established the 13th Region. On October 11, by computer effort, 4,534 persons were transferred from the twelve Alaska Regions into the 13th Region according to their last written request made on or before August 15, 1975. Pursuant to the October 6 court order the Department has invited eight bona fide organizations presently known by the Secretary to represent non-resident Alaska Natives to submit the names of no more than five consenting nominees for election as incorporators and members of the interim board of directors of the 13th Regional Corporation. The Department prepared ballots with the names of 24 such nominees and on November 10 sent one ballot to each of the 3,100 adult 13th Region enrollees with instructions to vote for not more than 5 nominees and to return the ballot by December 1. The results will be tabulated by December 10 and the nominees receiving the highest number of votes shall be recognized as incorporators for the purpose of preparing and submitting the proposed articles of incorporation and bylaws for the 13th Regional Corporation. Those so recognized will also constitute the initial board of directors to serve until the first meeting of shareholders or until their successors are elected and qualify.

The proposed articles of incorporation and bylaws are to be approved by early January 1976; the first meeting of the shareholders and election of the board of directors is to be held by early February, 1976; and by February 15, 1976, the corporation is to be paid its share of monies in the Alaska Native Fund. Pursuant to the October 6 order, when the 13th Regional Corporation makes its first distribution, all adult non-resident Native enrollees, whether or not presently enrolled in the 13th Region, shall be given a final opportunity to elect their preference for enrollment in the 13th Region or one of the other 12 Regions.

Accordingly, we recommend that section 8 be deleted as it is unnecessary, but that the savings clause of amended section 7(c)(9) of ANCSA under section 8 of this bill be retained.

SECTION 9

Under section 19(b) of ANCSA, seven Native villages elected to acquire title to the surface and subsurface estate of former reserves in lieu of receiving both benefits as a Native village under ANCSA, and regional corporation benefits.

Section 9 concerns one of the seven villages, Klukwan, Inc., which voted to retain the former reserve, the Klukwan Reserve or Reservation. Chilkat Indian Village, the organization of Natives who actually reside on the reserve, had negotiated a mineral lease in 1970, and it has been alleged in pending litigation that valid existing rights under this lease may survive the enactment of ANCSA and the extinguishment of the reserve itself. While all the residents of the reserve are members of Chilkat Indian Village, many of those non-residents who enrolled there and are stockholders in Klukwan, Inc., are not members of Chilkat. The mineral deposit is the major element of value in the lands of the former reserve and if the Chilkat position is correct the majority of Kluwan's shareholders would not receive the benefit of either the lease or the Settlement Act.

Section 9 would amend section 16 of ANCSA to allow the shareholders of Klukwan, Inc., to participate in the Act's benefits as if they had not elected to acquire title to their former reserve, including the selection of land, providing that Klukwan, Inc., will quit claim all its rights, title and interest in the reserve to Chilkat Indian Village.

We support the provisions of section 9. However, while section 9 would take care of the reserve land and rights thereto, it may not extend to $100,000 in lease rentals already derived from the lease after the passage of the Settlement Act. In our judgment, the United States and Klukwan, Inc., should also quit claim to Chilkat all rights to rentals and other benefits paid by the lessee prior to the passage of this bill. Further, Chilkat should also relinquish any claims it might have against Klukwan, Inc., the United States or the lessee, for mispayment.

We would note that section 9 may affect the Regions under section 12(c) of ANCSA by decreasing the acreage factor by 23,933, and under section 14(h)(8) by changing the Regional population factor.

SECTION 10

Section 10 would amend section 16(b) of ANCSA. Pursuant to amended section 16(b), the allocations received by the Southeastern Alaska Regional Corporation under section 14(h)(8) of ANCSA would be selected and conveyed from lands withdrawn by section 16(a) of ANCSA that were not selected by the village corporations, with the exception of lands on Admiralty Island in the Angoon withdrawal area, and lands in the Yakutat and Saxman withdrawal areas without the consent of the Governor of Alaska.

With the exception of some small amounts of public domain land around the Village of Klukwan, section 10 would permit the Sealaska Regional Corporation to make land selections pursuant to section 14(h)(8) of ANCSA primarily within the Tongass National Forest. Accordingly, this Department defers to the views of the U.S. Forest Service, as they are the agency with jurisdiction over those lands.

We would point out, however, that section 10 of H.R. 6644 as reported by the Subcommittee on Indian Affairs could have an impact upon section 12(c) of ANCSA. Part of the section 12(c) formula concerns allocations among the Regional Corporations based upon lands selected under section 16 of the Settlement Act. Since section 10 of H.R. 6644 amends section 16(b) rather than section 14(h)(8) of ANCSA, section 10 could be interpreted to affect the formula, and thus the entitlements of the other Regions, under section 12(c) of the Settlement Act.

SECTION 11

Section 11 of H.R. 6644 would amend section 7(a) of ANCSA to fix the boundary between the Southeastern and Chugach Regions at the 141st meridian provided that with regard to lands conveyed to it in the vicinity of Icy Bay, the Chugach Regional Corporation shall accord to Natives enrolled to the village of Yakutat the same rights and privileges for traditional purposes on such lands as it would accord its own shareholders.

The effect of this amendment would be to settle the boundary dispute between the two Regions, and within the settled boundary allow the Natives of the village of Yakutat, which is in the Southeastern Alaska Region, to use the lands around Icy Bay, in the Chugach Region, for subsistence purposes.

Although the boundary question is presently in arbitration in accordance with section 7(a) of ANCSA, if this amendment is acceptable to the two Regions involved, then we would support it. However, we would note that we construe this provision to be self-executing, with the rights and obligations therefrom flowing between the two Regions, and conferring no obligation upon this Department to write this language into patents issued pursuant to ANCSA.

Further, we would suggest that the term "in the vicinity of Icy Bay" on lines 14-15, page 30, be more precisely defined.

SECTION 12

Section 12 of H.R. 6644 as reported by the Subcommittee on Indian Affairs contains provisions to resolve the land selection problem of the Cook Inlet Region, Inc. For several months now representatives of the Department, the State of Alaska, and Cook Inlet have engaged in extensive discussions about possible solutions to this problem. The parties to these discussions have not yet arrived at a mutually acceptable settlement. As of this writing, the final details are still being negotiated.

SECTION 13

Under section 13, a new subsection (f) would be added to section 21 of ANCSA. This new section 21(f) would provide that until December 18, 1991, the stock of any regional corporation organized pursuant to section 7 of ANCSA, including the right to receive distributions under section 7(j), and the stock of any Village Corporation organized pursuant to section 8 of ANCSA, shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

We have no objection to the provisions of section 13. However, we would note that section 7(h)(3) of ANCSA prohibits alienation of stock until January 1, 1992, not December 18, 1991. Accordingly, we recommend that the date "December 18, 1991," on line 4, page 33, be deleted, and the date "January 1, 1992" be substituted in its place.

SECTION 14

Section 14(a) would provide a one-time payment of $250,000 to each of the corporations organized pursuant to section 14(h)(3) of ANCSA. Although the members of these four corporations (Kenai, Sitka, Juneau and Kodiak) are stockholders in their respective regional corporations, these corporations are not themselves recipients of funds under ANCSA. These corporations, however, are incurring expenses in organizing and operating themselves, making land selections and in engaging in necessary planning.

Section 14(b) provides for payments of $100,000 each to six of the seven villages (excluding Klukwan, Inc.) who chose to retain former reserves under section 19(b) of ANCSA. These villages chose title to former reserves in lieu of the benefits accorded a village under ANCSA and, as such, are not eligible to select other land or receive a distribution of regional corporation funds. Further, the members thereof are not shareholders in their respective regional corporations.

Under section 14(c), the funds provided under 14 (a) and (b) are to be used only for planning and development, and for other purposes for which these corporations were organized under ANCSA.

Section 14(d) authorizes $1,600,00 in fiscal year 1976 to implement section 14.

We believe there is no basis for increasing the total amount of the Alaska Native Claims Settlement Act by $1.6 million in addition to the $962,500 million already provided. Any funds provided for these 10 corporations should be authorized from the present Alaska Native Fund.

SECTION 15

Section 15 of H.R. 6644 would direct the Secretary of the Interior to convey to the Koniag Regional Corporation the subsurface estate of certain lands selected by such corporation located within the Aniakchak Caldera National Monument. Further, notwithstanding the inclusion of the surface estate of these lands in any national monument or other national land system referred to in section 17(d)(2) of ANCSA, Koniag, Inc., may use the surface estate as is reasonably necessary to mine the subsurface, subject to regulations by the Secretary to protect the surface.

This provision would legislate an agreement between this Department and Koniag, Inc., concerning the lands within the area proposed by this Department for establishment as the Aniakchak Caldera National Monument in the National Park System under section 17(d)(2) of ANCSA. The Department had agreed to recommend to the Congress, at the time the Aniakchak proposal was being considered, that Koniag, Inc., be permitted to make specific subsurface selections within the Monument.

We believe, however, that a Congressional decision regarding the lands available for selection within the Monument be made at the same time Congress considers the establishment of the Monument. In that way Congress would have before it all of the relevant information concerning the resource values in the area and it would be in the best position to make a judgment on the matter. Further, we believe that public hearings on the amendment should be held. We continue to believe that the better course would be to consider all aspects of each D–2 proposal together, rather than in piecemeal fashion. However, should the Committee decide to go forward with the Koniag amendment at this time, we have no objection to the substance of the amendment in section 15 of H.R. 6644 as reported by the Subcommittee on Indian Affairs.

Time has not permitted securing advice from the Office of Management and Budget as to the relationship of this report to the program of the President.

Sincerely yours,

KENT FRIZZELL,
Acting Secretary of the Interior.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, House Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that your Committee is now considering H.R. 6644,[1] a bill to amend the Alaska Native Claims Settlement Act of 1971.[2] The staff of the Commission has recently conferred with representatives of the Department of the Interior and the Office of Management and Budget, and, as a result of that conference, we wish to offer comments with respect to two sections of the proposed bill, Sections 103 and 107, which involve the securities laws, the Investment Company Act of 1940 ("1940 Act") in particular.

Section 103 would add a new provision to the Settlement Act giving the corporations organized pursuant thereto ("ANCSA Corporations") a temporary exemption from the 1940 Act until December 31, 1976. In introducing this bill to the House, Congressman Young indicated that without such an exemption, certain ANCSA Corporations investing some of their funds "in commercial bank time deposit-or certificates of deposit" might "risk being classified as investment companies." He farther indicated that such an exemption would "provide necessary breathing room to the SEC and the Native corporations to permit resolution of long-range problems."[3]

As I indicated in my letter to you of February 1, 1975, commenting upon an identical provision in H.R. 1355,[4] I believe it would be unwise to exempt the ANCSA Corporations from all provisions of the 1940 Act. The Commission's position was then, and continues to be,

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[1] 94th Cong., 1st Sess. (1975), 121 Cong. Rec. H–3506 (daily ed., May 1, 1975).
[2] 85 Stat. 688.
[3] Supra n. 1, at 3506, 3507.
[4] 93rd Cong., 2nd Sess. (1974); 120 Cong. Rec. H–290 (daily ed., January 29, 1974).

that certain provisions of the Act should be applied to ANCSA Corporations falling within the 1940 Act's definition of investment company in order to protect the substantial pools of liquid capital which these companies hold in trust for the benefit of numerous unsophisticated Alaska native shareholders.

ANCSA Corporations are not restricted by the Settlement Act, the securities laws, or Alaska law to investing in bank time deposits or certificates of deposit; and, in fact, it is our understanding that certain of them are investing in other types of securities. In any event, the application of the 1940 Act to a corporation investing in certificates of deposit and other securities of a relatively non-speculative character is more than a technical complication. Numerous so-called money market funds registered under the 1940 Act voluntarily restrict their investments to certificates of deposit, government securities, and like investments; and certain of the protections afforded shareholders of such funds by the 1940 Act would be appropriate for an ANCSA Corporation with similar voluntary investment restrictions.

As you are probably aware, in accordance with my earlier letter to you, the Commission acted promptly last year to exempt the ANCSA Corporations from all but the most essential provisions of the 1940 Act by adopting temporary Rule 6c-2(T).[5] The Commission has received a number of comments on the proposed rule, and, having analyzed these, the Commission's staff has recently submitted a revised version of the proposed rule to the Commission. The Commission intends promptly to consider the staff recommendations and either to adopt a permanent exemptive rule or ask for further public comments on a revised proposal. As presently proposed by the staff, Rule 6c-2 would add the proxy, reporting and record-keeping requirements of the Act to the group of provisions from which ANCSA Corporations registering under the rule would not be exempt. It should be emphasized that both the temporary rule and the proposed permanent rule affect only those ANCSA Corporations which choose to register with the Commission pursuant to Section 8(a) of the 1940 Act.

We should also point out that, if the Congress exempts the ANCSA Corporations from the 1940 Act, a number of the companies would continue to be subject to the Securities Exchange Act of 1934 ("Exchange Act") as companies having 500 or more shareholders and more than $1,000,000 in assets. Such companies would have to comply with the registration, reporting, and proxy solicitation provisions of the Exchange Act. We believe that these provisions provide significant protections to the shareholders of the ANCSA Corporations and that such shareholders should not be given any less protection under the Exchange Act than Congress has given to shareholders of other, more conventional corporations. However, we believe it would be most unfortunate if the ANCSA Corporations were exempted during the time they are investment companies from a statute specifically designed to regulate investment companies and be subject only to the requirements of a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies.

[5] Rule 6c-2(T) exempts ANCSA Corporations registering pursuant to Section 8(a) of the Act from all provisions of the 1940 Act except Sections 9, 17, 30, and 37 (Investment Company Act Release No. 8251, February 20, 1974, attached).

Section 107 of the bill would authorize the ANCSA Corporations to merge or consolidate under Alaska law. First, assuming that Section 103 is not adopted, we do not think this provision standing alone would exempt merger transactions from the Commission's jurisdiction under Section 17 of the 1940 Act, which relates to the transactions between affiliates.

Second, if the bill were changed to exempt such mergers from the 1940 Act, we do not feel that such a change would serve the interests of ANCSA shareholders. Any mergers of ANCSA Corporations which constitute transactions of affiliated persons or companies within the meaning of Section 17 should remain subject, in our view, to the standards of fairness imposed by that section. Commission review of these mergers is especially important because of the difficulty of ascertaining the value of ANCSA Corporation assets for purposes of an exchange of shares or an acquisition of assets.

We have gained some familiarity recently with at least one proposed merger involving ANCSA Corporations, that proposed by the NANA Regional Corporation and a number of its village corporations. As we understand it, that merger would involve the exchange of rights now vested in natives belonging to the various corporations. Such vested rights, although difficult to value at this time, would presumptively differ from one corporation to another; yet, subsequent to the exchange, the affected natives would all have equal rights. We are troubled that such a shift in vested rights among investors who now have the protections of the 1940 Act might, if the proposed bill were adopted, take place without any consideration of its fairness. Our view in this regard is buttressed by our understanding that there is no provision of Alaska Corporation law which provides protections comparable to those afforded by Section 17.

Thank you for the opportunity of commenting on H.R. 6644. We trust that our comments will be of assistance to you and we stand ready to provide you with whatever further assistance you may desire.

Sincerely,

RAY GARRETT, JR., *Chairman.*

Enclosure.

INVESTMENT COMPANY ACT OF 1940

Release No. 8251/February 26, 1974

NOTICE OF ADOPTION OF TEMPORARY RULE 6C-2(T) AND OF PROPOSAL TO ADOPT RULE 6C-2, BOTH UNDER THE INVESTMENT COMPANY ACT OF 1940 CONDITIONALLY EXEMPTING CORPORATIONS ORGANIZED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT FROM ALL PROVISIONS OF THE INVESTMENT COMPANY ACT OF 1940 EXCEPT SECTIONS 8(a), 9, 17, 36, AND 37. (FILE NO. 87-514)

Notice is hereby given that the Securities and Exchange Commission hereby adopts temporary Rule 6c-2(T) and proposes to adopt Rule 6c-2, both under the Investment Company Act of 1940 ("Act") to exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971[1] ("Settlement Act") (such corporations here-

[1] 85 Stat. 688.

inafter referred to collectively as "ANCSA Corporations"). Such exemptions are conditioned upon adherence by the ANCSA Corporations to reporting and other requirements specified herein. Rule 6c-2(T) is effective as of December 18, 1971, the date of the enactment of the Settlement Act; it will be superseded at such time as the Commission takes action on proposed Rule 6c-2, which, as proposed, would provide the same relief on a permanent basis as is now provided by Rule 6c-2(T).

The ANCSA Corporations have been (or will soon be) organized to hold and administer the extensive land grants, mineral rights, cash, and mineral revenues intended by the Government of the United States to recompense Alaska's native Indian Aleut and Eskimo population ("Alaska Natives") for lands within the State of Alaska. In accordance with this statutory purpose, the ANCSA Corporations will be owned and managed exclusively by Alaska Natives, who will be given shares of stock in the ANCSA Corporations. The ANCSA Corporations consist of twelve "Regional Corporations," representing the Alaska Natives residing in twelve geographical districts designated by the Department of the Interior, and more than 200 "Village Corporations" within these districts each representing Alaska Natives residing in a village.

Although the ANCSA Corporations are to be given substantial real estate and subsurface mineral interests, many of such interests are not presently specifically identifiable as they are to be selected and acquired over a four-year period in accordance with the provisions of the Settlement Act. Distribution of a significant portion of monetary compensation was made almost immediately upon enactment of the Settlement Act, however, and $130,000,000 of such monies has already been received by the twelve Regional Corporations. Furthermore, large additional distributions of cash will be made to the ANCSA Corporations in the next few years, so that, during this period, at least until they have fully exercised their land grant privileges and have begun to engage primarily in owning land or operating a business, many of the ANCSA Corporations may be investment companies within the meaning of Sections 3(a)(1) and 3(a)(3) of the Act.[2]

It appears that, without compliance with the Act or exemptive relief by the Commission, questions may be raised whether many ANCSA Corporations may operate in interstate commerce or buy securities in interstate commerce.[3] Several ANCSA Corporations have filed applications for orders of the Commission pursuant to Section 3(b)(2) of the Act, each claiming, in effect, that the applicant is primarily engaged in a business other than that of being an investment com-

[2] Section 3(a)(1) defines "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) defines "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (excluding Government securities and cash items) on an unconsolidated basis.

[3] Such activities might be precluded by Sections 7(a)(4) and 7(d)(3) of the Act, which provide, respectively, that an unregistered investment company may not engage in any business in interstate commerce and that no depositor or trustee of or underwriter for any unregistered investment company may sell or purchase for the account of such company, by the use of the mails or any means or instrumentality of interstate commerce, any security or interest in a security, by whomever issued.

inafter referred to collectively as "ANCSA Corporations"). Such exemptions are conditioned upon adherence by the ANCSA Corporations to reporting and other requirements specified herein. Rule 6c-2(T) is effective as of December 18, 1971, the date of the enactment of the Settlement Act; it will be superseded at such time as the Commission takes action on proposed Rule 6c-2, which, as proposed, would provide the same relief on a permanent basis as is now provided by Rule 6c-2(T).

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[3] Such activities might be precluded by Sections 7(a)(1) and 7(b)(2) of the Act, which provide, respectively, that an unregistered investment company may not engage in any business in interstate commerce and that no depositor or trustee of or underwriter for any unregistered investment company may sell or purchase for the account of such company, by the use of the mails or any means or instrumentality of interstate commerce, any security or interest in a security, by whomever issued.

pany.[4] In view of the large number of ANCSA Corporations, many of which are potential applicants of this type, and the serious question as to whether such ANCSA Corporations can meet the operational prerequisites for a Section 3(b)(2) order, the Commission has determined to grant appropriate temporary exemptive relief by the promulgation of a rule pursuant to Section 6(c) of the Act and to propose that such relief be made permanent.

Rule 6c-2(T) temporarily removes all ANCSA Corporations from the burden of complying with various requirements of the Act. Such corporations will be obliged to comply with only those provisions which provide essential protection for the substantial pools of liquid capital they hold in trust for the Alaska Natives. Accordingly, Rule 6c-2(T) provides that the ANCSA Corporations shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37, provided, however, that such corporations must comply with certain reporting and other requirements set forth in the rule. Rule 6c-2 would provide exactly the same relief on a permanent basis, if adopted.

Section 8(a) of the Act requires the ANCSA Corporations to register with the Commission by filing a Form N-8A disclosing basic information such as the name and address of the corporation, the names of its officers, directors, and adviser and the identity of other companies substantial amounts of the securities of which are held by the registrant. The more detailed Form N-8B-1 registration statement will not be required.

Section 9 of the Act prohibits a person convicted of certain crimes or enjoined from certain specified activities, generally crimes and activities involving securities transactions and the functions of underwriters, brokers, dealers and financial institutions, from serving as an officer, director, member of an advisory board, investment adviser, or depositor of a registered investment company. Section 9 also provides procedures for the removal of this prohibition under appropriate circumstances.

Section 17, generally speaking, requires Commission approval before the ANCSA Corporations may engage in certain transactions with affiliated persons.

Section 36 authorizes the Commission or a shareholder to bring a civil action against officers, directors, members of advisory boards, investment advisers, depositors or underwriters of registered companies for breach of fiduciary duty involving personal misconduct. It further provides that an investment adviser is deemed to have a fiduciary duty with respect to the receipt of compensation for services or payments of a material nature paid by the investment company.

Section 37 makes it a crime under the Act to steal or embezzle the property of an investment company.

The exemptions granted by the rules may be claimed only by ANCSA Corporations which meet conditions requiring them to file annually with the Commission copies of reports required by Section 7(o) of the Settlement Act, and to maintain the records used as the basis for such reports for examination by the Commission.

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[4] Section 3(b)(2) provides, in pertinent part, that if the Commission finds that an issuer is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, such issuer will not be an investment company within the meaning of the Act.

Rule 6(c)-2(T) is hereby adopted pursuant to Sections 6(c), 38(a), and 39 of the Act. Proposed Rule 6(c)-2 would be adopted pursuant to the same provisions. Section 6(c) of the Act provides that the Commission by rule, regulation, or order may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) states, in part, that the Commission shall have the authority from time to time to make, issue and amend such rules and regulations as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act. Section 39 states in part that, subject to the Federal Register Act, rules and regulations of the Commission under the Act shall be effective upon publication in the manner prescribed by the Commission.

The text of Rule 6c-2(T) is as follows:

> Rule 6c-2(T): Temporray Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporations") shall be temporarily exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certification thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

The Commission finds that the adoption of Rule 6c-2(T) is appropriate in the public interest and is consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. The Commission further finds, in accordance with the requirements of the Administrative Procedure Act[5] that notice of Rule 6c-2(T) prior to its adoption and public procedure thereon are impracticable and unnecessary since the rule will be temporary in its effect and will not exempt any ANCSA Corporations from those provisions of the Act needed to provide essential protections for the assets being held for the benefit of the Alaska Natives until such time as the rule is adopted.[6] Accordingly, Rule 6c-2(T) shall become effective on February 26, 1974, retroactive to December 18, 1971, the date of enactment of the Settlement Act.

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[5] 5 U.S.C. § 551 et seq. (1970).
[6] Id. § 553(d)(1).

The text of proposed Rule 6c-2 is as follows:

Rule 6c-2: Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporation") shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certifications thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

All interested persons are invited to submit views and comments with respect to proposed Rule 6c-2, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 10, 1974. All communications with respect to this matter should refer to File No. S7-514. Such communications will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 3, 1975.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department of Agriculture would like to offer its views on certain provisions of the Subcommittee Print of H.R. 6644, a bill "To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing corporations and for other purposes."

The bill was ordered reported to the full Committee on October 2 by the Subcommittee on Indian Affairs. We understand that the Committee will consider the bill early in December.

The Department of Agriculture has major concerns about certain provisions of the Subcommittee Print which affect the responsibilities of this Department. These include (1) the definition of "proceeds" from public easements as contained in section 2(e); (2) the special treatment provided in section 10 relating to Sealaska's entitlement

under 14(h)(8) of the Settlement Act; (3) the settlement of Cook Inlet Regional Corporation's land selection difficulties as proposed in section 12; and (4) the conveyance of subsurface estate in the proposed Aniakchack Caldera National Monument to Koniag Regional Corporation. Our recommendations on each of these provisions are presented in the enclosed supplemental statement. If H.R. 6644 is amended as recommended in our statement, this Department would have no objection to the enactment of the bill.

This Department is seriously concerned with the repeated efforts to amend the Settlement Act. In our view, the Alaska Native Claims Settlement Act represents a fair and equitable settlement of the interests of the Alaska Natives, the State of Alaska and the nation at large. The Act resulted from long and careful deliberation by several Congresses and represents a careful balance and compromise of the various interests. We are concerned that amendments to the Settlement Act will ultimately result in major alterations of the settlement and lead to the reopening of issues that the Congress and the Executive Branch clearly thought were settled by passage of the Act. This Department would prefer that amendments to the Act be limited to resolving conflicts that are inherent in the Act and to resolving procedural matters which have developed in trying to implement the Act.

The Office of Management and Budget advises that the presentation of this report is consistent with the Administration's objectives.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

SUPPLEMENTAL STATEMENT OF THE U.S. DEPARTMENT OF AGRICULTURE ON SUBCOMMITTEE PRINT OF H.R. 6644

Section 2(c)—Proceeds From Public Easements

Section 2(c) provides that proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. The intent of the provision is not clear, and we are concerned about how the term "proceeds" might be construed.

Two types of easements are being reserved in support of the National Forest System program in Alaska. The first type includes those necessary to maintain the existing rights of third parties. Proceeds from these easements will pass to the Natives under the provisions of section 14(g) of the Settlement Act. No easements are being reserved by the Forest Service solely for the future use of third parties.

The second type of easement includes those necessary to provide access to the National Forests and to otherwise support management of National Forest programs. We do not participate any proceeds from these public easements.

We would strongly object to section 2(c) if the intent is to interpret the term "proceeds" to include receipts from sale or use of National Forest resources which require use of a reserved easement—for example, a timber sale contract which required hauling logs over a road on a reserved easement—or if the "proceeds" were to include road maintenance or cost-recovery charges levied by the Forest Service on

a non-Federal user. We do not believe that such receipts or cost-recovery charges should be considered as proceeds.

Therefore, if the Committee determines that Natives should receive certain proceeds from public easements reserved pursuant to section 17(b)(3), we recommend that section 2(c) be amended as follows:

"(c) Any and all rental and use fees paid by commercial users of public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share, to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act. As used in this subsection, the term rental and use fee shall not include road maintenance or other cost-recovery charges levied to a non-Federal user."

This proposed amendment has been developed by this Department and the Department of the Interior. It accommodates our concerns about what constitutes a proceed derived from these easements. Under this provision, the receipts from sale or use of National Forest resources which required use of a reserved easement would clearly not fall within the meaning of rental and use fees. In addition, charges levied to commercial users by the Forest Service to recover direct costs would also not be subject to distribution under section 2(c).

Section 10—Sealaska Amendment

Section 10 of the Subcommittee Print would amend section 16(b) of the Settlement Act to permit Sealaska Regional Corporation to select the lands to which it is entitled under section 14(h)(8) from lands withdrawn for but not conveyed to Village Corporations within the Region. However, Sealaska could not select lands on Admiralty Island and, without the consent of the Governor of Alaska, could not select lands in the Saxman and Yakutat withdrawal areas.

The Department of Agriculture strongly recommends that section 10 not be incorporated into H.R. 6644, as amended by the Subcommittee.

The Alaska Native Claims Settlement Act (ANCSA) was the result of long and careful deliberation, negotiation, and compromise by the Congress, the Executive Branch, the State of Alaska, and the Alaska Natives. The resulting settlement represented a carefully constructed balance which was deemed equitable to the interests of the American people, the Alaska Natives, and the State of Alaska. To amend the Act now with regard to land selection would, in our view, undo the balance and equity achieved by ANCSA and lead to the reopening of issues which Congress and the Executive Branch clearly thought were settled by enactment of the Alaska Native Claims Settlement Act.

An important aspect of the balance achieved by ANCSA was the special treatment of land selection by the natives of southeast Alaska. In 1968 the Court of Claims entered judgment in behalf of the Tlingit and Haida Indians of southeast Alaska in the amount of some $7.5 millions. Most of this amount represented compensation for the Federal taking of land which became the Tongass National Forest. In formulating ANCSA, the Congress recognized this cash settlement. It also recognized that the value of lands in southeast Alaska with its water access and commercial timber is greater than that of other regions in Alaska and that there was a need to prevent conflict between

the purposes of the Act and the purposes for which the National Forests were established. Accordingly, under ANCSA, the southeast native village corporations were limited to selections of 23,040 acres each, and the Southeast Regional Corporation (Sealaska) was excluded from land selection under section 12. The only land which Congress entitled Sealaska to select was a share of the balance of the two million acres withdrawn under section 14(h). By specifically authorizing conveyances from the National Forests for section 14(h)(1), (2)(3), and (5), it is clear that Congress did not intend for 14(h)(8) conveyances to be made from National Forest lands.

Section 10 of the Subcommittee Print would alter the balance of the Act by awarding Sealaska a greater settlement than Congress intended and by giving Sealaska selection rights on lands for which compensation has already been granted. It would also have a detrimental effect on land selections by the other Regional Corporations and represent an inequity to them. First, by amending section 16, the Sealaska amendment would affect the formula under section 12 which governs the amount of lands that all other Regional Corporations may select and would reduce the amount of lands to which these corporations are entitled. The effect would be to prevent the conveyance of the full 40 million acres provided for in the Act. Secondly, Sealaska Region would receive 14(h)(8) lands of far greater surface value than would the other Regional Corporations. Moreover, if section 10 is enacted, it is probable that the Chugach and Koniag Regions would desire similar treatment for their entitlements under 14(h)(8). These Regions are claiming difficulty in selecting the full amount of lands to which they are entitled under section 12(c) because of the limitation on selections from the National Forests and the National Wildlife Refuge System.

In our view, the proposal contained in section 10 of H.R. 6644 represents the kind of conflict between National Forest purposes and the interests of the Alaska Natives that ANCSA sought to eliminate. Section 10 would likely result in an additional 200–250,000 acres being withdrawn from the Tongass National Forest. These lands contain the full range of resource values for which the National Forest was established. The public values include significant wildlife habitat, recreation use areas, access to major fishing areas, and lands suited to timber harvest. We believe the benefits of multiple resource management can best be achieved by retaining these lands as part of the National Forest System.

In summary, we urge the Committee not to incorporate section 10 in H.R. 6644. There are sufficient D-1 lands within southeastern Alaska to provide for Sealaska Corporation's selection as originally contemplated in the Alaska Natives Claims Settlement Act. We believe that selections from these lands would be comparable to lands available to other regional corporations under section 14(h)(8) of the Act.

Section 12—Cook Inlet Regional Corporation

Section 12 of the Subcommittee Print would amend section 12 of the Settlement Act by adding a new subsection (f) to permit exchange of Federal lands withdrawn under section 17(d) for State patented lands and interests therein. These State lands would then be conveyed to Cook Inlet Regional Corporation along with two townships of National Forest lands. In addition, subsection (3) would permit the Cook

Inlet Region to select lands withdrawn for village selection in other regions.

We oppose section 12. The proposed conveyance of two townships of National Forest land represents precisely the kind of conflict between the purposes of the Settlement Act and the purposes of National Forests that Congress sought to resolve in passing the Settlement Act.

We understand from the Department of the Interior that a mutually acceptable settlement has not yet been reached with Cook Inlet Regional Corporation. For this reason, we recommend that congressional action on this issue be deferred.

Section 15—Conveyance to Koniag Regional Corporation

Section 15 of the Subcommittee Print would convey to Koniag Regional Corporation the subsurface estate under certain lands proposed for establishment as the Aniakchak Caldera National Monument.

While the lands and interests involved in this conveyance are not under the jurisdiction of this Department, we are opposed to the inclusion of this provision in H.R. 6644.

The Settlement Act provides for dual withdrawals of the d-2 lands and for these dual withdrawls to be considered at the time the Congress considers the d-2 proposals for new national forests, parks, refuges, and wild and scenic rivers. We are unaware of any urgency which would necessitate resolving the selection of Koniag Regional Corporation's land selection problems now. In our view, the better course is to consider all aspects of each d-2 proposal together as the Settlement Act provides. Accordingly, we recommend that section 15 not be enacted.

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Joint Meeting of the House and Senate Natural Resources Committees
Jury Assembly Room, State Court Building, Anchorage, Alaska
Saturday, February 7, 1976

(tape one)

: ...people somehow feel that the Congress of the United States has the authority to liberalize what State administrators can do with the authority that they have been given by the State Legislature. This is absolutely false; Congress cannot release State administrators from the responsiblities of the State Constitution and State Statutes. Only the Legislature of the State of Alaska can do this. So whatever Congress says or whatever you may think Congress may have said with respect to the supposed amendment of the Statehood Act, it's irrelevant. What the administration can do, must be done within the framework of the laws which you have passed or which you will pass. So in no way is this trade related to what Congress has said or has not said with respect to the section of the recently passed Omnibus Act. I would like at this point, since I believe that we will have a substantial amount of testimony today from interested members of the public concerning one aspect of the trade, that is the trade involving lands in the Beluga area, to have Mr. Ross Shaff explain in a short summary form some of the points that were raised in the document which has been put out as an open file report by the Division of Geological-Geophysical Survey, namely this yellow report which a number of you have and I see Senator Rader reading now, entitled "Economic and Geologic Studies of the Beluga/Capps Area and Geologic Resource Occurances in the other areas of the Proposed Cook Inlet Land Trade." We feel that this is appropriate at the outset to define a few of the terms and parameters which you may hear mentioned today so that everyone here will be able to understand when a term's used that, hopefully, everybody is using it in the same method. And so I would like at this time to ask Ross to summarize that report.

Sen. Poland: As each of the people speak, we would appreciate if they would give their names and position in the department (IA)

Shaff: Senator Poland and members of the committee. My name is Ross Shaff and I'm the State Biologist and as such, I'm Director of the Division of Geological/Geophysical Surveys of the Department of Natural Resources. Traditionally, our State survey as well as the United States geological surveys, our main function has been to provide information in part about land areas if possible and to be involved in policy decisions. Since the Cook Inlet State land trade became an issue, our survey has provided as much information to various interested parties as possible including the Division of Lands and the Commissioner of Natural Resources. We thought it might be helpful to the Legislature if we could compile as much of this information that has been submitted to other people into one report and this is a preliminary open file report which I believe was distributed by the Commissioner a few weeks ago. The authors of this report are present here today to answer any of the details of the technical questions which you may have. Actually our interest in the Cook Inlet Basin began some time ago and there are other detailed publications of our survey, Open File Report #51 dealing with coal resources in Alaska in general. And Open File Report #74 dealing with Cook Inlet coals in particular. This Open File Report then is essentially a summary of information that we have access to and would like to share with the Legislature.

(IA - inaudible)

The report is divided into three parts; part one speaks specifically to the reserves that we estimate are present within the land trade area in the Beluga region. This report was done by Don McGee who is here today and he'll answer questions as to how we arrived at these figures and so forth. His best estimate of known coal reserves in the Beluga land trade area only 570 million short tons. The hypothetical reserves within the land trade area, amounts to 2 billion short tons. This does not include the 1.6 billion known short tons in the mental health lands. These figures are only for the land trade area within the Beluga region. I think it is very important that we come to a clear definition as to what we mean by known reserves and hypothetical. We have seen in newspaper articles very large figures without a qualifying adjective to indicate whether they're talking about known coals or hypothetical. There is an established terminology, I say established - generally accepted terminology for known and hypothetical which are the two terms that we've used mainly in our report and I think the easiest way to say this is that in the case of known recoals, we're 95% sure that those coals are there. We are not saying necessarily that the coals are economic, that they are recoverable; we are saying we know those coals exist in a given region. When we're talking about hypothetical coals, we are in the realm of speculation and we are really saying that in our professional opinion the geological setting is adequate for the formation of coals and that it is probable that those coals exists and we must make a few assumptions as to the thicknesses of coals based on very scattered data and arrive at some very broad figures. Actually, this hypothetical estimate will be different depending upon the operator or the investigator.

Part two of our report speaks to the loss of royalty income to the State of Alaska if the Beluga coals are transferred to CIR. The study that we did shows two main things; one is that the income to the State of Alaska in terms of royalty on coals is really a function of the rate at which those coals are produced. Inasmuch as the royalty is based upon ten cents per ton, the royalty may be moved upward or downward, but based on a tonnage factor. Pat Doby is the author of this report; he is here today to answer specific questions on this and to give you some summary numbers of this part of the report - our total estimated accumulative to the year 2025 would range between 84 million dollars and 650.9 million dollars. If we discount those figures at 8% to present day values, we would be talking between 6.5 million and 67 million. If we discount them at 10%, we would be talking between 3.7 million and 42 million as income to the State. This does not include rental fees or lease fees. Now the royalty would be the largest amount of money of income to the State. This is what this study points out.

The third section of our report deals with the other trade areas and here we are more or less in the realm of speculation because of the uncertainty of the actual land that will be traded. I would point out that the third section simply indicates the kinds of resources that we know to exist in the trade areas. Where possible, we give an estimate of known coal reserves or known metallic deposits and so forth. In the other trade areas and in the Beluga-Capps trade area, our estimate is that we are dealing with a total of 895 million known short tons of coal. So that in terms of the total trade, the State would be trading away a total of 895 short tons of known coal. In terms of hypothetical coal, and again the figure of hypothetical reserves are very speculative, we are probably talking about 50 billion tons would be our estimate. We have the figure before us that we would like to have clarified at some point and that is the range of figure for recoverable coal in the trade area which ranges between 4 and 17 billion tons. This was in a newspaper article. We have no idea how this particular figure was arrived at. Actually, when we look at the 50 billion total, hypothetical, we are

not really talking about 50 billion because our estimates for the hypothetical reserves, for example in the Kenai Peninsula includes the entire Kenai Peninsula and we are not including specific townships (IA) in consideration. Just for your information, in comparison to the total hypothetical coals in the State reported by McGee and Oakland File at 51, we're probably talking about 4 trillion short tons of coals.

Sen. Poland: Thank you very much. Are there further questions from (IA)

: Mr. Shaff, could we determine our known likely oil and gas reserves in this area?

Shaff: The report speaks to that very briefly. In the Beluga, as you know, there is a potential for oil and gas inasmuch as we're dealing with a similar geological formation. We do not have any direct evidence that oil and gas exists. We can speak of the potential.

Sen. Poland: Senator (IA)

: I wasn't quite clear on what you mentioned about the mental health land; are they involved in this to any degree?

Shaff: We have... mental health lands are not involved in the trade. I did mention the mental health lands because we do have a known reserve in the mental health lands at 1.6 billion tons. That is not included in the figure that I gave you for the trade area in the Beluga region.

Smith: Just to summarize that, within the Beluga area, 75% of the known coal reserves remain with the State, approximately 25% of the known coal reserves would be available if selected by Cook Inlet.

Sen. Poland: (IA)

: Seventy-five per cent would remain with the State?

Smith: Would remain with the State, has nothing to do with the trade.

: You said that percentage of the known coal reserves. What percentage of what you're calling the hypothetical coal reserves would remain with the State and, of the reserves in that area, what percentage becomes(IA)?

Shaff: I don't have a hypothetical figure for the coal reserves in the mental health lands before me so I can't quickly calculate the percentage. We could do that when we put up - we have a map. . .

: Do you think it's about that same proportion or is it different?

Shaff: Well, he was speaking about the known.

: I know, but do you think that the hypothetical coal reserves, subject to check of your materials that it would even out backwards - same order of magnitude or proportion to (IA) or substantially different?

Shaff: I think staff is working that ou right now.

Doby: It's not an answer exactly but we can work that figure out for you. But if we take the hypothetical coal reserves in the entire Cook Inlet region, the State possesses a very large percentage of reserves. The estimates of reserves underneath the Cook Inlet which may be developed some day through liquification are extremely large - up in the trillions of tons. I think Mr. McGee can bear that out. The potential for the entire State is in excess of 5 trillion and again we could bear that out. The State has a huge coal potential in the hypothetical range and there is a lot of coal in the Cook Inlet region that is not involved in the trade. To answer your question, I think the percentage would probably be (IA).

Sen. Poland: Would you please identify yourself?

Doby: My name is Patrick Doby. I work for this gentleman here.

Smith: Pat is one of the authors of the report in front of you.

: Are you determining that because there no doubt will be people here who will testify that what you're calling hypothetical coal reserves may be a little more than hypothetical so any representations you make as to what proportion you think is in or out of the land that is subject to the trade would be important to both what you're calling hypothetical reserves as it would be for what you're calling proven or known.

Sen. Poland: (IA) Representative Cotten.

Rep. Cotten: Mr. Smith, although probably "threat" wasn't the best word to use in - anytime I hear the subject (IA) about what the Federal Government might do. But it seems that the possiblity of another Frizzel type offer occurring, that the State does nothing. The evidence of that, it seems to me, to be a - threat maybe is a little bit too large a term - but perhaps you might address your attendant to, in the rest of the testimony, go over what the status of such lands like the Swanson oil fields, the Campbell tract, Point Campbell out there - what would be the status of those if the trade doesn't go through?

Smith: First of all, I would like to say that when I alluded before to the term "threat", I was tying it more to the wording that occurred in that particular article which said that no other lands would be transferred to the State, as though they were refusing to transfer our statehood entitlement because of this and that's what I was trying to say - that that is not the case at all. With respect to the point you raise now, taking heed of your term that maybe we shouldn't use the word threat but being in the realm of that ballpark, the U.S. Congress has said that they will seek an equitable solution to the Cook Inlet problem. They are aware of what the Secretary offered to Cook Inlet at one point, the quote 'Frizzel' offer. And this of course is what, last year, approximately a year ago, the Cook Inlet region approached Congress to implement, was that offer. And if Congress does - if the trade does not go through and Congress does decide that they are going to legislate a settlement, it's hard to say - our Congressional delegation which asked the State initially to become involved, is aware, I think, that Congress is serious when they say that. I think our delegation would indicate that they do feel that the settlement might not be at all in the State's best

interest. With respect to the particular aspect that you're talking about now, the Swanson River oil revenues, the park lands out here in the Campbell airstrip area, it's very hard to say. I do feel that the State would put up a tremendous hue and cry concerning the oil revenues in the Swanson River. The question about whether or not the delegations would feel that or whether or not they could hold that line in Congress, that's a discretionary judgement. I should say a subjective judgement on various peoples parts. We do know that it was offered. We do know, since the State gets 90% of those revenues anyway, they're not of particular interest or significance to the Secretary because he doesn't get them one way or the other. With respect to the land within the Anchorage Bowl, Section 22-L of the Claims Act says that in implementing the Claims Act the Sectretary would not be able to allow any native corporation to get title to federal land within two miles of a first class city. Now, in the agreement in front of you, Congress has waived that right. So even though we're talking about what happens if the agreement doesn't go through, Congress has already indicated that it does not feel that that protection, you might say, for municipality is sacrosanct. They have already waived it once. Of the three areas about a third of the Campbell tract is outside that two mile limit as it existed in 1971 anyway. And I believe Pt. Campbell is completely out and I'm pretty sure that the approximately 255 acres of Pt. Woronzof is also out, certainly it is right on the edge. Now again, how Congress will review those, I don't know. They might decide to protect one and allow the other to be part of an agreement. It's very hard to say. I think it is fair to say that Congress did indicate that if the State decided not to participate in the agreement, which they fully realize is within the States' rights, the State has come into this on their own, that Congress has asked that those lands not be transferred, to leave its options open. And again, that could be read on the face for face value for what you think they meant by indicating that. But it is their land over which they do have control.

: (IA) I understood you to say at the previous meeting that the Frizzel offer wasn't withdrawn?

Smith: The Frizzel offer was withdrawn before Cook Inlet did select it, that's true. I just indicate again, it was an offer that we feel on its face was valid at the time.

Sen. Poland: (IA)

: What is the status then right now of, for instance the Campbell tract? You say that they waived that provision for this agreement but if this agreement doesn't go through, then the Campbell tract really wouldn't be eligible for selection by CIRC.

Smith: If the agreement did not go through, it is my assumption that the Secretary will still be bound by Section 22-L. If Congress decides to legislate some settlement, they can do what they want with that restraint. They can allow it to stand or get rid of it. The Secretary would not be able to go around that constraint however. Although as I say, approximately 1/3 of Campbell airstrip, the Campbell tract itself is outside that two mile limit.

Sen. Poland: Senator Orsini.

Sen. Orsini: Part of the study on the economic end of the study involved the use of probabilities of certain lawsuits either taking place or not taking place. Who estimated the probabilities?

Smith: It's a result of a number of discussions. Again, that is something which you could call subjective on any one individual's part. But when you bat these around, you come out with a figure. I guess I was the person who ultimately nailed down the final probability on it.

Sen. Orsini: (IA) consultation with a number of attorneys who will be familiar with the cases, discuss the matter and in your opinion that the different viewpoints that these were the average or most likely (IA)?

Smith: More or less. For instance, with respect to one as an example, the Cook Inlet appeal in court - some counsel has said that the appeal might probably have a little bit less than fifty. Other people who - not necessarily directly counseled here but who have probably a darn good background of what happened in the State and would be knowledgeable - say that it might be as high as, and might even be 70% for that specific aspect of the analysis. So it's hard to say. I think people could generally say that the appeal Cook Inlet has lodged with the Court of Appeals is certainly stronger than their initial District Court appeal. Most people think that it's got a stronger possiblity than they had on the first go around.

Sen. Poland: (IA)

Smith: Excuse me Madam Chairman, can I - I would like to add to that. As an early part of this negotiation, something which has fallen out now because the time has changed, the State was offering half a township to each of the villages of Salmantof and Alexander Creek if they dropped their appeals to become villages. A lot of people including a number of attorneys felt that the State was out of their mind because there was no way those two villages were going to win their suit. Those two are now villages. They have selected tremendous amounts of land including State mental health land around Salamator. Alexander Creek has selected land that under the terms of this agreement would come to the State, so it came right out of the State part of what we would have gotten from the agreement. And yet a good deal of counsel and expertise said that they would not do it. They are now villages. So my point is, to emphasize that it's a subjective situation.

: You were giving us some figures on royalty, that figured on present royalty?

Shaff: The numbers that I gave you were based upon two assumptions; that they would continue with the present royalty until the year 1991 at 10¢ per ton. After that the study includes three possible royalties anticipating that the State perhaps -I wish to change its royalty policy and a fixed dollar amount per ton, you would fix dollar per (IA) a ton of coal. We used the package three royalties, 1/3 royalty or 33 and a third percent or 1/8 (IA) 1991 to the year 2025 would change the scenario to a royalty fixed on the cost of coal as best we could estimate the cost of coal in 1991. And we used the Bureau of Mines figures for that estimate.

: (IA)

Shaff: Our agreements were, or our discussions and work in the survey started sometime in October. I can't be more specific now on the date than October, 1975.

Sen. Poland: (IA)

: What is this ten cents per ton based on (IA) picked out of the air or based on some rational process or how is it arrived at?

Schaff: The ten cents per ton is the present State policy for the royalty to be received per ton of coal. But where that ten cents came from, I can't answer that question.

: Since time immemorial or is that something more recent or . . .(IA)

Smith: The ten cents per ton figure is a figure which is put into the initial prospecting permit when an applicant asks for a right to go out and explore on State lands. In the cases of most of the major leases in the Beluga area, the value is ten cents a ton. These leases were taken - or this prospecting permits were taken to lease in approximately 1971 in the case of the land trade area; 1972 in the case of other State lands in that area. Which means the prospecting permits themselves were issued say about 1969. At that time, ten cents a ton was a figure that was arrived at within the leasing section of the Division of Lands as an appropriate return to the State. Right now, current prospecting permits, as an example, carry a value of thirty cents per ton. In both cases these are fixed values and one of the results of the report in front of you, one of the recommendations is that setting a fixed value for a period of twenty years is the case, is probably not the best idea particularly in a time of inflation as we're faced with now. I think, as a result of this we can look to a change in this in the future. Because as was queried a moment ago concerning what happens to our economic analysis after 1991 - we hypothesize in the analysis that we would go to a percentage royalty basis, a percent of the actual coal and that would be a much better return, probably, to the State as a royalty on simply because as the price of coals goes up the State would rise with it. We would take a bit more of the risk but we would share in those profits. I might add with respect to that assumption in here, that assumption increases tremendously with some dubious legal status the totals that the State would be trading away in this case. In other words, we have no reason to believe that the leasee would actually allow the State to change to this more favorable status at that time. They have a lease which says that certain cents per ton and they would probably argue very strongly to keep it. So another reason why this assumption is a very liberal assumption for coming up with totals of the value of that royalty to the State, in this case ....

: (IA) leases of this whole area is involved in (IA) What do you think is implied (IA)

Smith: Under the terms of the lease, as they stand now, they can be renegotiated, or not renegotiated. They will be reappraised after a period of twenty years which would be 1991 in the leases involved here. The lease itself would extend as long as the person pays their lease fees and essentially maintains within the framework of requirements.

: What happens to the Cook Inlet Regional Corporation when they take over this land, they take over the leases too (IA) then they will get to use (IA) ten cents a ton or what happens (IA)?

Smith: If the trade was consumated, Cook Inlet would receive title to the surface and subsurface resources in the area and that would include administration of the lease. They would be bound by the terms and conditions of the lease. If any coals were mined before 1991, Cook Inlet would receive the ten cents a ton. If any coal was mined after that, that would be on the basis of whatever the reappraised value would be under the reappraisal clause.

: (IA) exact definition to the State (IA)

Smith: That's true. As Senator Rodey observed on Wednesday, in a way the State is giving away what we now look at as kind of some poor bargaining in the past as far as fixed royalty rate perhaps or just giving this on to Cook Inlet and they are going to have to worry about the problems that they would have there. We're still going to have the same problems on the three quarters that we retain now.

: Has your department projected the earliest possible development date for the reserves that exist there (IA)

Shaff: Yes. (IA) report we've made some assumptions as to when production might begin and make preparations. (IA) If I can find (IA) I could tell you. We took three scenarios for that (IA) and the most optimistic would be that in 1981 production would start in the trade area of the Beluga (IA) at one million tons per year. And the most pessimistic would be that no production would start until 1990 at half a million short tons per year. The rates of production were geared to accumulative production at the end of fifty years of a hundred and fifty million tons in the pessimistic case and 891 million accumulative production in the optimistic case presuming a production of 21 million tons per year - shows that twentyone million tons per year as it was cited in a report by Stanford Research Institute. However, production rate of 21 million tons per year is almost three times the annual production rate of the largest coal producer in the United States. The (IA) Mine produces about 7.4 million tons. So our optimistic rate of production is about three times as optimistic (IA) is not.

: What sort of date would be necessary for full production by 1981?

Shaff: I'm sorry, I don't understand the question?

: If we're going to have coal produced by 1981, then we're going to have to start at...

Shaff: I would assume that they would start with their planning now.

: Now?

Shaff: Now.

: Next week? Last week?

Shaff: Right. Our optimistic is that it would take approximately 6 years, or 5

years to get coal producers...

Smith: I would like to add...

Shaff: These are somewhat arbitrary figures, difficult to (IA) available, etc.

Smith: I would like to add something to that briefly. Two points; one, in the optimistic case we also assume that there are approximately 400 million more tons of coal over there than we know today. We are not quite doubling, but I think it's an increase from 570 to 891 of over 400. It must be about 80% more over there than we actually know under that scenerio. Again, another temendous assumption, which is just that, very optimistic. But, I would like to indicate that this also, the whole report, makes the assumption that the Capps Glacier area, the know coal reserves that would be transferred under the proposal, would be developed first. I think that most people would agree that that will not be the case. The 3/4ths of the known resources that are within the mental health lands that would stay with the State, will most probably be developed first. It's interesting that the same company that holds the Capps lease also holds a major portion of the coal reserves that will remain on State land and one of their early and most prominant concerns in talking with the State on this, was that they might have to develop the Capps Glacier before the other, the Chuitna field, that would stay with the State, because they are looking at developing the Chuitna fields first and, therefore, every year that development of the Capps Glacier is put off, the present, lost value to the State under the terms of the trade, of course, decreases.

: I understand half (IA) coal (IA) the hypothetical problems that are coming up. You're estimating up to 80% of how much coal is there (IA) 25 million to 42 million. The spread is fantastic (IA).

Smith: Well, that's one of the risks they're taking. They personally are not, I don't believe, looking at that as the crown jewels in the trade at all.

: We have a right to look with suspicion when you're talking about those (IA) involved in this decision here. (IA) hard money figures that are given to us about what values are represented (IA) in this trade. We simply don't know.

Smith: That's a very good theme, I think, that's running through it and what we're trying to present in here are the best ideas on the various scenarios by State experts. Cook Inlet, I believe, values the lands even lower than the State does from the standpoint of the mineral rights.

: One more thing, has anybody from our State people (IA) federal people (IA) looked at this with a better eye than the State has?

Smith: There are other people that have looked at it. I'm sure that they will be before you before the end of your meeting here. As to whether they've looked at it with better eyes than the State, I would withhold that. I would be biased on that question. I think, I can say that nobody has looked specifically at this area particularly recently in trying to analyze the aspects of the trade. But what you have are, as I say from the standpoint of the State's experts, is the best information we can come up with.

: (IA) optimistic assumption for production in 1981. What did you assume to be the use of the coal there (IA) typical or what? (IA)

: (IA) for export not power generation (IA)

: Japanese export or what?

: Probably.

: (IA)

: You have to make an assumption that there's a market for it (IA) what the assumption was.

Doby: (IA) the assumptions actually made were a pessimistic assumption that the coal would not be exported - that was the pessimistic. The first thing that was assumed, that the real pessimistic is zero production, nothing ever happens, which is possible. A catastrophe could arise that we would have no production. We said, or I said, that the pessimistic assusmption, and this has been realized by some other people at least in your minds, that the coal would be produced for internal use primarily for electric generation and this type of thing and that's the low end.

Then taking the optimistic, this is the second optimistic, I have a previous calculation that's about half of this much and I talked to a number of people and the technique was to call mines and a number of people and say, 'how quick can you actually come to production?' I keep asking people. And then, 'what do you think the market will be?' and that's a big question. The assumption here is that somebody can absorb 21 million tons a year of our coal which is a tremendous amount of coal. And that's why it's extremely optimistic - if it has to be exported, most likely Japan and the western United States, and that's assuming the western United States isn't going to go ahead and do what they're trying to do and that's produce a lot of coal. So, I think I mentioned in the report that it's very optimistic - it's just about as far out as we can possibly get and the reason for that is that this is probably the best discounted income we could expect to get for the State. I used a 1/6 royalty. I just negotiated what I thought was the best deal we could possibly make and produce a heck of a lot of coal for the whole world as fast as I could do it and that's about what it is. You come down from that a heck of a lot but those numbers, from the people I talked to and it's just plain reason or as much money as they could see (IA)

(IA)

Doby: Thank you.

Sen. Poland: Senator (IA)

: It's my understanding the legislation pending before Congress embodied the transfer of Swanson River fields as well as Anchorage (IA) lands to Cook Inlet (IA). Is that correct?

Smith: If you're talking about the legislation that was proposed to talk about last spring, in other words the old Frizzel offer which was there - that did

include all the things, whether it's pending before Congress, I would say that that's back burner now since we've all come up with a proposal as something that we all felt we could live with. I don't know if it is in Congress, exactly where it is. I would assume it would still be in sub-committee, probably House sub-committee.

: Both houses by Congressman Meeds and Senator Jackson respectively. And sponsored in...

: Certainly in the House by Congressman Meeds. I cannot say for sure in the Senate who it was. Cook Inlet Region might be able to help you with that question.

: It's also my understanding that gentlemen in the various houses have recourse to input (IA) legislature and have they (IA) to push the legislation through and some reasonable settlement of (IA) might be (IA)

Smith: I think that's a pretty set conclusion. Congressman Meeds felt he wanted a 13th regional corporation over some considerable opposition from both the natives of Alaska and others and he got a 13th regional corporation. Senator Jackson, I don't feel I have to say about his power in the Senate.

: (IA) capable that the State must do something to negotiate a settlement that will prevent the transfer of the Swanson River fields which brings (IA) revenue to the State, (IA) Anchorage (IA) prevent (IA) I don't know whether it raised the proper word uses (IA) Point out it seems that they have a considerable hold on much of our natural resources and something has to be done even discounting the possibility of (IA)

Smith: Again I, that's what I meant when I alluded at the outset to the alternatives we're faced with and I concur again. It's hard to say that Congress, in fact, if someone were to ask me, I would say that Congress would probably not pass the Frizzel offer as such because it would impact the State and I'm sure that the Congressional delegation would be out there running interference but they can just throw so many blocks and my point is, I think we could safely say that there would definitely be some aspects of any settlement which would not be in the State's interests. You mentioned a couple of them that the State might protect but they can't protect all of them is what I'm saying.

(IA)

Sen. Poland: Senator (IA)

: Most of what you've talked about so far in regard to the Cook Inlet lands that are proposed to be traded under this three-way trade to the Cook Inlet Regional Corporation, what about the other lands that the State would be getting in exchange - what do you have to say about those? I know that they're not only mentioned in the material (IA) reports but if you're going to give a capsule summary of one part of it, you should give a capsule summary of the other part.

Shaff: I can't. I would have to walk through the report and respond in terms of each area we're talking about and give you a (IA) areas of the State.

: We're talking in terms of value in dollars for various purposes - what kind of comments in regard to the (IA) you might (IA)

Shaff: Very few because in those areas we're talking mainly about resource potential rather than resource value. And in the case of the Beluga fields we have known coals and in certain other areas, for instance the Matanusak and so forth, some known coals, so we can speak a little more specifically. In terms of some of the other areas of the State will receive, we're in geological no-man's land essentially (IA) in regard to certain types (IA) problems (IA) proper subject. So that, there is not too much I can say about those lands.

Smith: I think one of the reasons on that is that, with respect to the Beluga area, we're talking about coal which is found usually in, if it's of importance at all, in some type of thick beds in one area and because of the nature of our leasing requirements, before they are leased, we have a good handle on what's there. Secondly, the State does get royalty from coal. If we were able, in some way, to have the prescience to know exactly what minerals were on the land the State was getting, we could put a dollar value on their value. The State gets nothing. We have no royalty, we have no severance tax on those minerals right now so even if we knew what was there, as far as the value, it's kind of unfair because we do not have a royalty or a severance on those minerals where we do on the situation with coal.

Sen. Poland: (IA)

Smith: Well, this was all we had in the way of prepared text because of the request by the Committee that we limit our initial presentation to within half an hour subject from then on afterwards to questioning. We have other members available here pursuant to your request as Mr. Shaff indicated, members of the Geological survey staff and if you have any particular questions to ask, I would feel that as you feel it appropriate to ask, we could then refer the questions to the proper individuals.

: (IA) economics value tables, as I recall (IA) two rates of discount (IA)

Smith: That's correct

: Which of those (IA)?

Smith: I believe it's the 8%.

(IA)

: This is the December 6th memorandum?

Smith: Yes, my December 6th memorandum is based upon the 8% summary that's in this book which, of course, is less favorable to the State than the 10% discount and we ran into discount rates because some people discount higher than others. Industry generally discounts at a higher rate. We felt that 8% was more realistic with respect to what the State returns as an investment on. I should say gets as interest on its investments within the general fund.

(IA)

Smith: I'm not sure but it was certainly an in-the-ball-park figure that we felt more comfortable with than the 10%.

(IA)

Doby: It was the 8%, Mike and I have discussed this. In most cases we kept trying to favor value of the resource and this is a standard economic cash flow calculation and we kept trying to push the numbers - or I did - to look at the most optimistic return to the State because when you're looking at the 8 - so we used the 8% as being a pretty optimistic cash flow and 10% is probably a little bit high with respect to the way we discount or sometimes, with respect, with a State project I would like to discount at 10% - I would like to think we could do that well and I wish we could.

: What about (IA)?

Doby: Well, I'm not an economist and I couldn't tell you that. Probably more than 10%, I'm sure.

(IA)

Doby: I wouldn't know. Sorry, But I'll find out for you.

(IA)

Smith: I would like to interject here that that figure of 8%, as far as a discount rate, it's in the ball park but I think that we may have missed the point if we try to put it against what we're getting within our investment funds where the State has had its general fund monies, and one of the reasons being that a state operates not like a giant corporation. We, whatever we got for this, if somebody was paying us money based upon these, for those lands, or whatever, the State would probably not be putting it into an investment trust fund. The State has other requirements and duties to its citizens of railroads, schools, hospitals, what have you, so that is a return; the capacity of doing something now with that money, not necessarily just whipping it into a bank. But you have to refer that probably to Commissioner Warwick to get an idea what - I should say Commissioner Gallagher - to find out what we're receiving from investments.

(IA)

Rep. Brown: Thank you Madam Chairman. I was not able to attend the Senate Resources Committee hearing again in Juneau on some of this (IA) having (IA) issues (IA) I think still are (IA) but I'm a little perplexed about what exactly really is the Administration's position. Is the Administration's position right now that they are strongly urging us to approve or bless or whatever this particular land trade or are they saying that the Administration wishes not to take a position and wants the Legislature to decide one way or the other?

Smith: I think we can fairly safely say the Administration is definitely behind this bill. We have been in the process of negotiations for going on, or in excess

of, nine months right now and until about three days ago, as Senator Poland mentioned earlier, we had indicated that the Governor was going to consummate the trade and bind the State to the agreement on March 12, and let the Legislature indicate an action definitely one way or the other. That does not at all diminish the Administration's intent on fulfilling the terms of the agreement which we inititaled with the other two parties involved and the only reason we will not do it is if the Legislature votes it down since the only other alternative would be that they would confirm the trade.

Rep. Brown: You know, you really do change the ball game an awful lot when on Tuesday one week you're saying you're going to do what you're going to do unless the Legislature says no and now you're saying you're not going to do what you're going to do unless the Legislature says yes. There's alot of difference between sitting in the Legislature and doing absolutely nothing and passing a bill or a resolution and it seems to me, at least based upon press releases from the Governor's office and reports in the press the last two or three days, there has been a change in position and that now the Governor wants to be almost for something and if any decision is made, it has to be made by the Legislature and if there's anything wrong with the decision, even though it was all generated by the Administration, the Legislature is given a deadline of about three weeks, it's all the fault of the Legislature in the event there is a mistake.

Smith: No. On the contrary. I don't agree with that, Representative Brown.

Rep. Brown: It sure sounded like what the press release said.

Smith: Well, I'm sorry. Press releases aren't always the best method of getting information and I believe that that was the interpretation by the Associated Press which removes it once again from the horse's mouth. I think what is the main point which the Governor has said is that because of the on-going tracking we have done on this, on a legal basis, and because of the amount of effort involved and because of the very large significance of the trade, that we don't want to be in a position of having a trade occur after the Legislature has spent a large amount of time looking at the trade even should they decide under the first scenario not to do anything. We do not want to consummate it with it still what might be a legal could as to whether or not the authority existed. This, as you realize, is one of the reasons why the Governor indicated in the first place that he wished the Legislature to take a look at it indicating that we feel the authority is there.

Rep. Brown: In the first place, my understanding is that the Administration didn't intend the Legislature to take a look at it at all. As a matter of fact, in Legislative Council we were constantly in the situation that we thought we were going to be presented with fait accompli that had already been completely finished before we even began the Legislative session and it seems to me that now, at least the part that was supposed to be direct quotes from the Governor as opposed to a press release or a re-recording by John Greely, who is a relatively competent reporter, is that even in the direct quotes, the Governor was saying that 'I want you to give me the authority that my legal advisors have told me I don't need.'

Smith: To try to sum it up without getting into a political argument, I think the Governor has said, as he did three days ago, that we wish the Legislature to look

at the land trade and the values that it holds for the State, weigh that, look at the alternatives, and to vote up or down concerning it. And that if the Legislature votes up on it, that we are going to feel much more comfortable in consummating the trade with the other two parties than we would have, had the Legislature looked at it and just done nothing. And that, I think, was the purpose in the change of course.

Sen. Poland: (IA) Representative Brown and Mr. Smith, as you know when the Select Committee went to Juneau there was no indication that the Legislature would have any part of the action and we insisted on it and I was very happy that the Governor took the attitude that if he were in the Legislature, he would feel the same way about it. But he has switched horses in mid-stream here and left us in the position of, we must either take a positive action or fail. The other alternative, if we didn't do anything, it was going to go through so you can see where it does give us cause to take an extra look at this. I notice that, I believe it was Mr. Doby who said that he was figuring exports as a market for this coal. Now I realize that your department probably does not have a bunch of economists on hand to give us all the various types of figures but I can't help but wonder if you have taken into consideration if these were converted or used for other performance of (IA), if there were worries to get it out if we, a figure based on the oil equivalent by conversion, has there been any thought to any of this?

Smith: I'll defer those points to Mr. Doby. I will say that the array of possibilities of course, is quite large. It does not matter, under the terms of the scenarios, really what the use is if the use is there. If somebody's going to slurry it out and take it somewhere, if they're taking out 21 million tons a year, it's irrelevant as to what they're using it for as long as they're taking it out in the quantities and under the time tables shown in the chart here.

Sen. Poland: Well, for the next 20 - or since the 1971 leases, but after that there would certainly be a drastic change, wouldn't there - when they start renegotiating?

Doby: The optimistic scenario is the 21 million tons a year - was taken from the Stanford Research Institute study which assumes that the coals would be run through - they have two different studies, but that some type of electric or slurry process would be used. That high scenario, more or less, that could be in there. The market for that amount of barrel oil equivalent within our next period of time is probably not too good in the State because of our own indigenous oil and gas reserves and this type of thing. By assuming an export, it means that really there is a market for it and most people assume that we're an energy exporting State - that most of our energy is going to be exported. But really the use of coal probably will be barrel oil equivalent to some type of a slurry. A lot of people feel that's the way the coal will go out and we have within your report (IA) that we've handed out, we have the Stanford Research Institute report which discusses this type of conversion (IA)

Sen. Poland: We had requested that Mr. Cleveland Conwell of Fairbanks (IA)

Smith: Mr. Conwell is here if you have any questions for him.

Sen. Poland: I would like to have him, I know he's involved in a coal seminar that was held in Fairbanks this year and since this subject is directly involved in the trade lands, I would like to hear from Mr. Conwell.

Conwell: Can everybody hear me? I certainly will be glad to answer any questions. My name is Cleveland Conwell and I'm a State mining engineer.

Sen. Poland: Mr. Conwell, have you ever been asked to give an appraisal of the land involved in the trade?

Conwell: I was asked twice. Once about the 8th of October when I was with Mr. Smith and he asked me if there were substantial coal reserves in the area (IA) said there were and then again on the 31st of January I was asked to make a very quick appraisal of the (IA) valley appraisal that had been made for the Beluga fields.

Sen. Poland: Did the figures that you came up with agree basically with the figures in the report that has been presented to this Committee?

Conwell: I have some very defininte opinions of the report that was given. As far as mathematics, I'd say yes, I think they're correct. But there are other...

Sen. Poland: As far as reserves, what do you think?

Conwell: Well, I think it's a little bit misleading, yes. The report, to me, if I was reading it without the knowledge that perhaps I have of it, I would interpret the 10 cents per ton royalty as applying to the trade area. Actually we're talking about 10 cents per ton royalty on one specific lease that was granted in 1971 and that is only on 7,000 acres and that specifically says the approximately 550 million tons of proven reserve coal which was drilled and outlined by Amex Plastic Development Company. Of course, they are now working down in the Chalitna area. And, as Mr. Smith has already point out to you, in more recent times the royalty has been raised - I think he mentioned 30 cents a ton on any permits we would be doing and certainly we have the perogative, the Director of the Division of Lands, to increase that royalty.

Sen. Poland: Representative Brown.

Rep. Brown: What range of royalty is, what is the widest range from lowest to highest figure that's common or familiar to those people who know the coal business in the United States. I mean, is 10 cents nominal, is it kind of like a magic figure like that 12 and 1/2 over any royalty overtures over oil or is it low...?

Conwell: It's a low historic figure that was used, say, prior to 1969.

Rep. Brown: What other kinds of figures are used by the public, private landowners outside for royalty...?

Conwell: The state of Montana recently has raised their royalty to, I understand, 33%.

Rep. Brown: 33%?

Conwell: 33%. And that's your range. I mean, you were asking for a range (IA)

Rep. Brown: That's quite a wide range?

Conwell: It's quite a wide range.

Sen. Poland: Representative Beirne.

Rep. Beirne: Mr. Conwell, in your estimation what is the (IA) what time frame?

Conwell: Well, I don't think the time frame is so bad in this. Of course, Amex is working on it and they're spending a great deal of money but I think you have to sort of look at the political climate before development actually proceeds. Be sure who you're dealing with and then even if all those were settled, the time frame of actually getting the equipment on the ground, I don't think we would actually have a large scale mining - and I'm talking about 10 million tons or greater - in less than probably 6 years - I don't think we could do that. And I would say that 6 to 10 year time limit for a major operation is realistic.

Sen. Poland: Representative (IA)

: What would you think that climate was (IA)?

Conwell: Well, prime market today, I think, would be for export. I think the markets are there. Well, I know of two markets in the Pacific Northwest that each supply 4 millior tons per year now. There certainly is Japanese, have been looking for from 2 to 4 million ton a year markets. And certainly if you go to the coal conversion which is the Stanford Research, you're looking at 100 thousand barrels of oil per day and certainly that will be absorbed into the market with no problem.

Sen. Poland: Representative (IA).

: (IA) expiration? (IA)

Sen. Poland: Mr. Hackett, were you included when (IA) report that was prepared (IA)

Hackett: No ma'am.

(IA)

Hackett: Steve Hackett, exploration geophysicist for the Division of (IA) project for geophysical survey.

Sen. Poland: Are you, you're familiar with the figures that have been given here, do you basically agree with them, with the research that you've done in this field?

Hackett: The area, in a recent geophysical survey, indicates that the Beluga Basin area's quite a bit more complex than had been assumed previously. There is substantial evidence that indicates that here is quite a bit of tertiary sediment in the Beluga Basin north of the Casa mountain fault.

Sen. Poland: What does that mean?

Fishburger: Are you trying to tell me that there's a bunch of dirt that you hadn't planned on finding on top or coal that you thought you might take out sometime? You've got more problems than you thought you had?

Hackett: Right. I don't want to get into a technical discussion but kind of a summary is that the gravity and magnetics in the area indicate that there could be a substantial tertiary sediment which encloses the coal and possibly oil and gas resources within the area of discussion, the trade discussion.

Fishburger: I assume then that the natural question to follow that, is that the six year plan for (IA) production is possibly higher?

Hackett: That's completely out of my specialty, of my realm. I couldn't answer that.

Sen. Poland: Representative Brown.

Rep. Brown: Madam Chairman, following up on Mr. Fishburger's question, at least your statement that you've just given us right now, as far as you know, was not taking into account, or doesn't seem to be taking into account in the estimate study we're talking about here...

Hackett: I believe that this report refers specifically to a coal evaluation and it does mention oil and gas potential but the survery, as such, just used known geologic evidence. The areas that I work in are more in direct evidence of structure and basins and mineral accumulation and it's not, it's kind of an ambiguous science is what I'm trying to say and I don't know why it was not considered in the economic evaluation of the Beluga Basin. Other than that, I can't answer your question.

: I'd like to ask a question, if I could, of perhaps Mr. Hackett. Are you saying that the comment you just made in some way affects the known recoverable resources over there - that we know about.?

Hackett: Right. I think that there's quite a bit of evidence to indicate that there is oil and gas potencial in Beluga Basin area that has not been previously considered.

: That wasn't my question. Is what you're talking about affecting the 570 million figure that this report speaks of, of tons of known coals?

Hackett: Yes, it could.

: You mean, it could reduce it?

Hackett: It could make it greater. The basin outline in actual potential or possible thickness for Kenai coal group could be alot more than had previously been recognized.

: I don't seem to be able to get my question across. This is based on known coal. We're not talking about what may be out there; we're talking about what is

there today. Is what you're saying, if we only know that here's so much now, and you're hypothesizing there may be more, it does not mean that what we have put out here today is not correct as far as it goes.

Hackett: Correct...as far as the coal resources.

: Okay. That, I think, was important because that is not what I understood Representative Brown to ask.

Shaff: Could I attempt to clarify a little. I think what we're stumbling over a little bit is a matter of scale. We're talking about the Cook Inlet Basin that has been fairly well defined by aeromatics and gravity studies as well as several wells. Steve's work dealing primarily with aeromatic data and gravity data has recently indicated that the Beluga Basin seems to be of larger magnitude in terms of depth and Steve might want to predict that depth from these studies and this report of his in press and he has reported to the Society of Experimental Geophysicists this past fall. We're really talking about a bigger basin. Now, how does it affect the hypothetical reserves? Don correct me if I say this incorrectly, but hypothetical reserves are based at times on a depth of 2500 feet and at other times on doubling that figure. So, in a sense it does mean in terms of the coals, that here may be more coal in the Beluga Basin simply because the basin's bigger than we thought it was. But in terms of the hypothetical reserves and our estimation, it may not have that much effect. So, it's sort of a yes and no answer but it's really a matter of scale, I think, that we're talking about.

Sen. Poland: Representative Smith.

Rep. Smith: I'm having trouble following this tale. Sometimes we're talking about the Beluga Basin and sometimes the Kenai Basin and (IA) differentiate that from (IA) specifically the area he's talking about. (IA)

Shaff: We came loaded with maps.

(IA)

Hackett: The area in question outlines, first of all, the Beluga Basin is on the west side of Cook Inlet, water bound by the (IA) faults cuts across the west side of Cook Inlet and around by Mt. Susitna here, Mt. Beluga, and Mt. (IA) here and (IA) Basin bound by faults and the black dot here represents (IA) myself with a survey a couple of summers ago and (IA) help outline the basin. The trade lands per se that we were talking about are right here in Beluga Lake and what is indicated from summary survey is that it was previously believed that the basin north, northwest of the Beluga (IA) fault was quite shallow, in other words, less than 2000 feet of tertiary sediment and both gravity and magnetic data indicate that there is a 6th section involved possibly up to 7500 feet of tertiary sediment sitting over (IA) right through here and Lake Beluga and in summary to just indicate the technology previously suspected and there is a lot of various potential, I think, just a larger basin than previously recognized. Does that help answer or clarify in very generalized terms.

: What does (IA) on the map?

Hackett: Kenai (IA) Anchorage is right here Bar Island, (IA) Island, this area right here, Beluga Basin is about 600 square miles, it covers about 600 square miles of the tertiary basin per se.

: Where's (IA) go on that map?

Hackett: It's right here.

: You said that an area (IA) in the middle of that is one of the areas that is the subject of the trade that is proposed, is that right?

Hackett: (IA) trade is sitting in the middle of the basin.

: I'm trying to spin my head back and forth and look here and there and back again.

Hackett: This yellow outline here is outlined on this gravity (IA). Recent production, oil and gas production, is associated right here (IA) bay. Right in here, Cook Inlet Basin is defined by this gravity low right here.

: If (IA) basin is larger than you thought it was, how does that, only a portion of the basin apparently is involved in the proposed trade...to what extent does that change the assumptions that have been used by those who have looked at the trade lands and estimated their value?

: On that question, I think the analysis of the coal subject based on the upper 2000 feet of sediment, in other words, that was considered to be economically feasible to mine. The point being that (IA) there is also oil and gas potential in the area nd also the basin covers a larger area (IA) than previously considered.

: You mean within the trade area, is that right?

: The trade area is still the same (IA) I don't believe I can answer your question.

Smith: Mr. Chairman, I believe that Mr. Doby would like to add a comment.

Doby: Let me put on a couple of different hats. This is my geophysicist hat. I am a geophysicist by trade so I understand a little bit about gravity and then I'll also put on my chief petroleum geologist's hat. But first I'll put the geophysicist hat on. I've got a coal hat sticking out here too so if I get confused, you'll know what's going on. I just talked to Mr. McGee and within the value of the coal in the geographic area of the trade, there's different assumptions, but with the economics we're looking at, we're assuming about 500 feet for strip mining and we're looking at strip mining, really, for economic reasons for this quantity of coal, producing this coal within 500 feet and certainly the deepest is 2000. Now, the gravity can tell you the thickness of a particular section of rock and we're talking about sedimentary rock of tertiary age, which is young, and what we find in the coal in here. Now, Mr. McGee had a report of '74 which calculated that coal underneath the water of Cook Inlet, we had 15 or 20,000 feet of the same kind of rock and we had trillions of tons of coal in it. But with respect to this particular trade, the actual thickness, whatever gravity, the variation of thickness

in terms of the trade doesn't really have a bearing because we're only mining the upper, economically feasible part of it - that's the coal. To answer your question, except for the edges, (IA) 50 foot on the edge, we don't know, but I mean, except for the edges as the basin increases, it shouldn't have much bearing if we add another 5000 foot because the calculations then, within this period of time, 50 years, we can only mine so much coal at a strip mining rate as fast as we can get it out if the market will take it. Now, the oil and gas, I have nothing - anybody can take their best guess at the value of the oil and gas there. It's been there a long time - there's quite a bit of information (IA) from whatever else, I can't answer that. Generally, I can say is, again as a chief petroleum geologist, the relative value of that land - it hasn't been exactly very high in the past. I mean, there could be oil any where out there but we simply haven't seen much activity, much discoveries, much luck and data doesn't indicate that it's what we would call high potential petroleum land and has not been rated as such by ourselves.

(IA)

: Question for Mr. (IA)

Sen. Poland: Representative Rhode.

Rep. Rhode: In other words, if you've got, let's say the coal ceiling was 10,000 feet deep, it doesn't mean anything, say, below 2500 anyway (IA) we mine it.

Doby: Pretty much in the future. The problem is we're looking at here, primarily at this time, strip mining, scraping it off to get to it, because we've got to have high volume production to equate the transportation costs and the costs of mining it here and with that type of production, of course, the deeper you get, the higher your costs and frankly, most people I've, at least according to Mr. McGee, you're looking at 500 feet for the economic projections we have. We're looking at economically mining the shallower coals now. Sometime far off in the future it's possible that deeper coals might become economic someday but it's always tough up here to think about, of that potential (IA)

Rep. Rhode: One more question: coming back to this ten cents a ton oil lease, then, the determination of the ten cents could easily be based on the, say, the feasibility of getting the coal out, would it not be that near salt water were easy to mine, the royalty would be, say, ten cents or way up in, say, the coal country or something (IA) it really wouldn't be worth anything, would it?

Doby: That's true. Actually, the paragraph in the report, the whole principle of assigning a constant monetary value for a royalty, like 10 cents, just is not done anymore because of inflation. We're living in an inflationary world and I discount that 10 cents, that dime, at the end of ten years is worth a penny or two and the rate royalty, a percentage royalty like we have on oil and gas of 12 1/2%, but this you take a little bit of money and you pay a little bit of money and that's...the ten cents a ton is just, I said it in there, is just not very darn good, it just stinks, to be quite frank. And I hope that we don't use that type of approach anymore.

Sen. Poland: Representative (IA)

: Who did you say you work for again?

Hackett: I work for the Geological/Geophysical Survey.

: That's the State?

Hackett: Right. It's part of Natural Resources.

: Do you agree with Mr. Doby's assessment of the possible future production of oil and gas in the specified area there?

Hackett (IA) previously, these statements right here other than all the wells, all the deep wells that are around the (IA) Lake faults or (IA) in that area so the only deep control we have in Cook Inlet Basin is out of Beluga, the basin per se. These new gravity stations here, (IA) this helps to find the gravity field in the area and very strong (IA) this area has been overlooked by companies and by the State as possible petroleum (IA).

: So you disagree then?

Hackett: Right. I think that the reason why there hasn't been any interest here before, we had no data to, or (IA) of the area other than the activity down where Paul Gaston was.

: You just did this, these gravity studies and so forth last summer?

Hackett: Summer before last. The project (IA). So, I don't disagree with Pat's conclusions there, other than this evidence indicated that there is additional possibilities that have never been recognized before (IA)

: You completed your analysis much more recently than the time that you did the survey(IA)

Hackett: No, this analysis has been in preliminary form but, to my knowledge, it was in our division since last year. I gave a talk in Denver in October summarizing the study (IA) exploration (IA)

: Mr. Hackett, do you have anyway of determining the potential for oil and gas?

Hackett: The only way that this type of data can be expanded (IA) drilling and the same thing with any other speculations, coal (IA), the only way that we can really get a grip on any analysis of the Beluga land trade is to actually get in there and (IA) what's there. A lot of the tools that we use for surface geology and a lot of geophysical/physical properties to project what's there, the only reality we could (IA) from drilling.

: Thank you very much.

Sen. Poland: Excuse me, Representative Smith had another question.

Rep. Smith: For Mike Smith. Mike, do you know offhand if any of this land is under oil and gas lease at present?

Smith: I'd have to defer that. I believe my mineral leasing officer, Detro Denton, is here at the moment. I believe that most of the area of interest is, as was just indicated, much more coastally oriented in the areas where we have the two known existing fields, the Nicholia and the Beluga gas field, but I'll have to check.

Sen. Poland: (IA) anyway, would you come forward please? Representative Smith had a question here?

Rep. Smith: Is this area under oil and gas lease now?

(IA)

Denton: I'm Detro Denton with the State Division of Lands. I'm not sure. I believe that a part of it is. I expect some mixed status. We've had a lot of leases terminate in that area recently. Expiring or terminating. I haven't looked at it with that in mind so I can't be sure.

Sen. Poland: Mr. Denton. were you involved in the firming up of the, I realize you're not involved in the policies, but were you brought into the discussions on this land trade?

Denton: In a very limited way.

Sen. Poland: Were you in from the beginning?

Denton: The first contact I had with, was at about the time the proposal was made public, a few weeks before that.

Sen. Poland: Do you see any problem in the difference of management between the State or private ownership?

Denton: You mean as far as the development of the resource goes?

Sen. Poland: Yes sir.

Denton: Yes. It's always easier and better if you have the land under one management.

Sen. Poland: And part of these leases would be under the State, those that are not involved in the land trade, and the other part would be under a private corporation with the set-up that we have right now if this trade were consummated.

Denton: Yes ma'am.

Sen. Poland: Are there any further questions? Representative Beirne?

Rep. Beirne: You mentioned that several of the leases were terminated. Is there - part of the termination is because they realize that (IA) region potential is not there and would feel at this time, this is a second question, we know more or less about potential leases than at the time those leases were (IA)?

Denton: Now we're speaking of the oil and gas leases terminating?

Rep. Beirne: Right.

Denton: I would say we know more but leases terminate under a variety of circumstances; one is that they abandon them, another is that their time runs out and they haven't got everything put together to spend the money to explore them, and it's a common practice in the areas that are being explored in the State now, this is something that happens all the time, is re-leased and re-leased and...

Rep. Beirne: (IA) they are (IA) to re-lease them, that's correct? (IA)

Denton: Yes ma'am.

Sen. Poland: Representative Rhode?

Rep. Rhode: That was my question, thank you.

Sen. Poland: Thank you, Mr. Denton. I would also like to hear from Mr. McGee who was, as I understand, was one of the authors of the book.

McGee: My name is Don McGee. I'm a member of the State Division of Geological/Geophysical Survey. Mr. Ross is my boss here.

Sen. Poland: You were, as I understand it, Mr. McGee, also working on the report that was prepared and presented to the Legislators with regards to the reserve?

McGee: Yes ma'am.

Sen. Poland: Were you involved in the negotiating, not the policy, but again, the preparation for the negotiations of the land trade?

McGee: Yes.

Sen. Poland: Early on or...?

McGee: In October, just before the announcement to the public in the newspapers.

Sen. Poland: And you, I take it, agree with the figures that are in the book - do you feel that they are a complete picture, that we're in a position to make profit judgements is this one of the things (IA)?

McGee: Yes. I think the figures are probably as accurate as we can make them (IA). Again, I want to emphasize that when we talk about known coals, we're talking about coal that has a high probability of being there. Hypothetical coals may have a plus or minus value maybe as much as 50 or even 75% - the best guess we have based on our present knowledge.

Sen. Poland: Representative Smith.

Rep. Smith: I have a problem with this scale still, Don. When we talk about the known reserve, I assume they're in the area that's pretty well defined here. Does that same hold true for hypothetical reserves, that when you find a hypothetical value, do you look at a whole valley or...?

McGee: No sir. The hypothetical value, as we mentioned here, are those values

within that area.

Rep Smith: Roughly within the area outlined by yellow here or...?

McGee: Yes, within the area we're talking about, the land trade area. If we go outside the area, we get much larger hypothetical reserves, much more area's involved.

Sen. Poland: Are there any further questions? Mr. Smith?

Smith: I have a question, I might, or a couple, I might ask Mr. McGee while he's here to bring out for the Committee, particularly as alluded to earlier by Mr. Shaff on some of the reports we've seen floating around in the papers concerning the various amounts of coal to be found and Mr. McGee, I know, is aware of some of these and I would like to ask, without getting into specifics, but do you feel that, your estimates as published in this report here, that, say, some of the amounts of coal and tonnages that have been quoted in the newpapers, do you feel that these have reasonable bases on which to use estimates following the work that you've done, this type of work in that area?

McGee: This is terminology. In the paper, the tonnages mentioned were mentioned as recoverable coal; I don't know what the word recoverable means. To me, it means what I would call known coals, coals we can extract within a reasonable economic picture. Hypothetical coals may, at some time in the future, become known coals for reason of drilling 17 (IA) and etc. But at the present time, they're not what I consider recoverable coal. So we're talking about two different things; we're talking about the coal (IA) and the coal that may be there.

Sen. Poland: And you feel these figures, there may be a combination of the two?

McGee: (IA)

Sen. Poland: Recoverable. Do you feel those were put forth and that they're a combination of (IA)?

McGee: I think they're too high to be called recoverable coal. They may become a hypothetical and a known coal (IA) combination (IA)

Sen. Poland: Representative Brown.

Rep. Brown: Thank you, Madam Chairman. Smith, when did you first become involved in the subject at hand?

Smith: The subject being?

Rep. Brown: The entire subject, the subject of the land trade. When were you first directly involved in discussions relating to it and what land would be included or not included?

Smith: I would say just about a year ago, almost to today.

Rep. Brown: And how would other people within your division answer that question. Mr. McGee has just said that he became involved shortly before the matter got into

public press in October and at least another member of that same division said the same thing. How many members of your division were involved in these discussions?

Smith: Well, you mean involved in the actual discussions with the three parties?

Rep. Brown: Or participating, whether they were participating as advisors of the represented the State or whatever.

Smith: Oh, at one time or another, I would say there were several people involved. As to when, most intense, I say intense when we really began under the initial congressional deadline of approximately mid to late May, there were people involved, discussed at various lengths, not in any great detail, but it would include the staff, with (IA) backgrounds. I had talked to Mr. Denton on one or two occasions, again, not in great detail. Whatever other resources we have, our land people, our planning department.

Rep. Brown: It just seems very strange to me, we've already had two people with quite a lot of expertise who work for the State say that they did not become involved in these matters until a matter of just a couple of weeks before it got to the public press. Now, the way I interpret that, you know, I can only interpret this is that a policy decision was made first and the defense of the policy decision was put together afterwards including getting all the technical support. At least, that's certainly what it sounds like.

Smith: I couldn't agree with you more, Mr. Brown. If you have taken the time to read some of the information that I believe was passed on to you by the Governor, you would have seen that the final decision to go on this was not made until sometime after the 6th of December and...

Rep. Brown: That certainly was not the way we heard it on Legislative council.

Smith: Well, I don't know how you heard it in Legislative council. Since the State did not enter into any agreements until after the 6th of December, I don't see how you could feel... I would like to explore that, there seems to be some problem here. I'd be very happy if somebody would show me where the Administration committed itself with respect to the land trade until early December in Washington.

Sen. Poland: I think you're playing with semantics. It was published on about (IA) 29th of September and announced a public hearing on the 3rd of October and when we went down there, Representative Smith and Senator Rader...

: That was November, wasn't it?

Sen. Poland: Early part of November and...

Smith: May I ask...

(tape three)

Smith: ...when the decision was made. Now, I think it's very obvious that the proposal which we have right here today that was made public on the 1st of October,

is very, very different from the agreement that was finally negotiated and agreed to in Washington D.C. I will stand up and say that the Legislative Committee, Select Committee, of which you are a member, was told at that time that some very significant changes had been made pursuant to the public announcement and public presentation in early October, which, of course, was a specific reason why the Administration went public, was to get the information and the ideas of the public. The memo transmittal said, dated December 6, lays out in two or three pages what that public input was and precisely how the agreement document was changed. Among other things, the six townships involved in the Beluga area which contains the other 75% of the known coal reserves were dropped. Now, if Mr. Brown wishes to say that that was not a change, that the Administration had made up its mind before that, I would just let the Alaskan public look at those two things to make the decision.

Rep. Brown: Madam Chairman, I didn't intend to make Mr. Smith think that I was cross examining him. I was asking questions and just drawing conclusions from what seemed like the answer to questions had been. I still think, you know, I think I might well end up when push comes to shove, voting for the bill that now the Governor says we need that we didn't need a few weeks ago. But I still just have the feeling that there's an awful lot about the whole way in which this was done, is something I just don't like and I don't say - see that was but that's just a suspicion. Maybe this isn't a forum for suspicions but, you know, if he thinks I'm throwing spears at him, I'm not.

Sen. Poland: I believe that's taken care of all the people you had here without (IA).
Excuse me, Representative Rhode, did you have a further question?

Rep. Rhode: No. I thought maybe we were - I was going to ask unanimous consent for a ten minute stretch.

Break.

Sen. Poland: Professor Wolf. We've turned the table so we hope that you folks will be able to hear better. We were unable to get a microphone.

Wolf: My name is Ernest Wolf. I am employed by the University of Alaska (IA) Research Laboratory. I hope that the Committee is not disappointed in my testimony because how much you like (IA) more information (IA) or which you have already gotten or might get better from these other people. I'm no expert on this coal trade or land trade here. I know I've been asked because I've thought a lot about the land situation in Alaska and the resource situation in Alaska and in the country and in the world. (IA) pipeline and the (IA) coal industry will also have to come here (IA) Washington to further make a deal (IA). A very short statement which I have (IA) to the Chairman and he asked me to just read this. It is a very (IA) broad statement and it touches on one aspect of the proposed trade:

"The land along with its resources in Alaska is one of the most important heritages that all people of the State have for individual benefit, as well as for providing a strong economy for the State. The land trade, as proposed, and as I understand the situation, would take State land that has mineral potential and place it in Native Corporation ownership. In return, the land that the State will

obtain has value for surface products (IA) which are less valuable than the wealth represented by the coal potential. The mineral land, if held by the State, can be leased to private industry. As provided for by the Settlement Act, a portion of the State's income from this land will go to each of the native corporations. The remaining portion of the mineral royalty receipts will go to the State for the benefit of all people of Alaska. Thus, in my opinion, the State should retain as much of its mineral resources as possible and make such resources available to the private sector for exploration and mining - which in the final analysis, will be for the good of all people of the State and the Nation."

My own statement of this and I might add a little for a statement that the mineral (IA) surface land (IA) cooked up by (IA) laboratory (IA) Fairbanks (IA) quadrangel which has been pretty well mined out (IA). Now if you want to adopt these (IA) northern (IA) cost the public an equivalent amount (IA) agriculture and 3/4 of you who think that's (IA) 47 years. (IA) at any rate (IA) 50 years anyway. Now I don't have a prepared statement. I've got down a number of observations that I've made about this (IA) which we've been hearing about today. First, I think that with all the insights the economists (IA) the economy studies that have been made. (IA) I think we're (IA) in fact, we've been talking about 8% and 10% (IA) present value (IA) gold return (IA) land economy (IA). We've got these other things which (IA) land (IA). Too many labels to really get down to business (IA) ten cents a ton and 33 and 1/3%. We've got inflation, all kinds of things and if you look ahead (IA) present value (IA) things is practically zero. Certainly (IA) resources will be zero if we consider that (IA) subsidy but before the land (IA) in 1956 the resources of Alaska had no dice. You couldn't get across (IA) file for (IA), And I submit (IA) again. (IA) but before (IA) in 1966, of Alaska (IA) again, the surface value (IA) drops very rapidly. The problem is (IA) back off (IA) land and we don't have to be economists or engineers (IA). But the basis of all production and the basis of all (IA). We're talking about land (IA) land (IA) of gold or recreation or climbing or whatever you want to do. The other thing I think we should say is that, as an old mining friend of mine used to say, everything we have comes out of the ground or off the ground. (IA) We've got to have land in order to keep up our agriculture potential and that's all that's standing between us and disaster right now. (IA) our farmers (IA). In order to have mining, you're going to have to have energy. (IA) of our civilization and our cultural attainment. And we're running (IA) consequences (IA) people throughout the State, right off the bat (IA). I don't care what the present value of coal is. It does supply (IA) people of the State and the nation and maybe the world (IA) pass through to the State. Now (IA) from the State's standpoint (IA) mining geologists and mineral economy (IA) one of the things that we don't seem to think about is that (IA) study reduces by an equal amount the potential (IA) and the result of this in thi. context is (IA) State (IA) known coal reserves decreases by that amount the potential for future discoveries on State land (IA) mining engineers on State land than we've got right now. Another incidence of high (IA) of discovery and development of mineral deposits (IA) takes longer to find than to develop. (IA) critical factor (IA) requires not related to discovery (IA) raise production (IA) rate of production and the result is (IA) state land and reserves. (IA) down the road somewhere (IA) We've got a few hundred pounds of (IA) here. I believe the price, I think we could say (IA) royalty would be the only loss to the State. (IA) Matanuska field (IA) we're going to have to have (IA) probably that first (IA) the corporation (IA) native lands (IA). We've got to realize that we are (IA) and we've got to take care of those needs first and then we can take care of the recreational needs and the environmental needs and the spiritual needs and so

on (IA) got a contract, they had a contract with the Federal Government (IA) several times (IA) Federal Government (IA) contract (IA). Thank you.

Sen. Poland: Are there any questions for Mr. Wolf? Representative Brown.

Rep. Brown: (IA)

Sen. Poland: Representative Rhode.

Rep. Rhode: Dr. Wolf, you mentioned in Dr. Breistline's statement there's, he felt that private industry was being asked to develop these resources particularly coal (IA). It was my understanding that if this land trade goes through and the Beluga coal fields wind up with the native corporation, they are considered private corporations and (IA) private industry was an efficient way to be developed.

Wolf: I think what Dr.Breistline meant there was that either way it was going to be developed by private industry (IA) incorporated (IA) private industry (IA) developed (IA)

Sen. Poland: Representative Brown.

Rep. Brown: Thank you Madam Chairman. Mr. Rhode said, you know, at least it seemed at the beginning of our statement that you're implying that if the land trade goes through, that the State would then lose the benefit of ever developing the resource at all. Of course, Representative Rhode questioned your answer, points out that's not really the case. I'm sure that, you know, and that there are economically feasible lands to develop in these areas and they're going to be developed whether somebody has a lease from the state or somebody has a lease from a private corporation or a native corporation or any corporation at all. So I would disagree with those implications at the beginning of the statement. That's all I have to say.

Sen. Poland: Representative Anderson.

Rep. Anderson: You say you work for the University of Alaska?

Wolf: Yes.

Rep. Anderson: And is this the University of Alaska's position of this?

Wolf: (IA) to that. I was asked to attend this hearing . I got a letter from Senator Poland. I think that I can say that much of what I've said might reflect (IA)

: I don't see why they should be involved anyway.

(IA)

Sen. Poland: (IA) Thank you for testifying Professor Wolf. We have one gentleman here who has to catch an airplane and he has asked me if he can testify at this time and I'll ask those that are having to wait to bear with us. Mr. Bill Waugeman.

Waugeman: My name is Bill Waugeman. Can you hear? I'm president of the Alaska Miners Association. I've been a coal miner in Alaska for 25 years. I'm one of the last of the breed. I think I know a little about it, at least I should. I have tried to analyze the situation as carefully as I can from various and sundry viewpoints and I, for one, and the Alaska Miners Association's position on this is that this trade (IA) regard to the coal land itself. Actually (IA) it's over the mental health lands. As far as I'm concerned, that should go too. What the people in Anchorage don't realize, I'm sure, some of these days, and it's not very far off, the Federal Government's going to come up with a fuel policy. When they come up with that fuel policy, it's not going to be good for the oil producers in the Anchorage area. It may not even be very good for the home owners as far as their heating facility is concerned in their homes. We have been using a high quality fuel in our boilers in this area ever since gas was struck at (IA) inlet. We've been using gas in our homes, too. Now this is a high quality fuel that should never be used in a boiler and my personal opinion is, and it's the opinion of many other people in the United States, that it shouldn't be used in the home. We have billions of tons of coal in the Beluga field as well as in the Nenana field and the othe coal fields around here. And this is the kind of fuel that we should be using foı boilers. So, it appears to me that one of these days that fuel office in Washington D.C. is going to finally come to the conclusion that they're going to have to write a policy and that policy regardless of the public (IA) something like this. Any place that has coal available will utilize that for their own heating and their (IA) and any other place that they can utilize that fuel. And oil and gas is going to be reserved for a better and higher use. Now, as far as the Alaska Miners Association is concerned, there are some other areas in this area with regard to hard rock minerals that I'm not going to touch on today. I'm just going to talk about coal. When you analyze that Beluga coal field, and I've prospected in there for about a week 25 years ago, 24 years ago. I didn't think too much of the field because it's too far away from transportation and too far away from the market. Our Administration, our State Administration, with it's no (IA) policy has turned off practically all of the investors, especially the mineral investors, in Alaska and if anything is going to be developed in the way of coal or minerals in Alaska, it's going to have to be done by local people. We had our oil for sale and the outfit that was interested in it, decided against it. I know one of the contributing factors was the fact that they didn't like this political climbing of the ladder. We need cheap power. It's a cold country and we need cheap heat. We should have utilized our coal resources. Now, frankly, it is the policy of the Miners Association to get as much of this land into private hands as possible. Although I thought the Native Land Claims Act, of 40 million acres, I can now see where I made a mistake. Unless we get more land into private hands in Alaska we're going to be a poor people. The only thing that makes wealth is natural resources. About the only natural resource we can develop in this country is the coal resources which we'll utilize ourselves and our precious metals. Why do I say the native corporation should have it? Since the State has turned off the biggest part of the potential dollars that would come in and develop our State, the only poeple that are going to have enough money to do this is going to be the native corporations, so if anybody (IA) these park lands (IA) is fuel, it looks to me like it's going to be the Cook Inlet Region, and I think the people in the Anchorage area should be encouraging, and I, for one, think it's a good idea. Thank you.

Sen. Poland: Thank you, Mr. Waugeman. Any questions? Representative Beirne.

Rep. Beirne: Mr. Waugeman, when you're talking about cheap energy, if the reason you believe that here in Alaska that coal would be any cheaper than hydroelectric power, you could put (IA) or out in some of the remote areas that (IA)

Waugeman: I'm glad you asked that question because that's one of the things I'm going to touch on. We put a few figures together on the Devils Canyon Dam deal, and we estimated that we could build a power plant (IA) developing the same amount of energy for just the interest cost on that project, basically the interest that we (IA). So the question is, yes; not only yes, but definitely yes, much cheaper. That construction cost has gotten pretty high.

Rep. Beirne: Madam Chairman, could we have the (IA)?

Sen. Poland: If Mr. Waugeman has the ...

(IA)

Waugeman: (IA) background material? I don't have it with me, but I can work it up for you very simply.

Sen. Poland: If you could send that to us in Juneau...

Waugeman: Sure.

Sen. Poland: Wednesday we're going to be having another hearing on this trade and we'd certainly welcome it.

Waugeman: (IA) done by a consulting engineering firm (IA) by a couple of our engineers.

Rep. Beirne: (IA)

Sen. Poland: Representative Osterback.

Rep. Osterback: Madam Chairman. You said it won't be too long before we'll get the bill from Washington D.C. saying that we can't burn fuel, gas in our homes?

Waugeman: I predict this to be true, yes.

Rep. Osterback: How many cubic feet (IA) home (IA) gas (IA) or whatever you're using?

Waugeman: Well, we're exporting that in the form of a product. We're manufacturing that. We're getting the benefit of the manufacturing profit on that and the utilization of our own manpower.

Rep. Osterback: But you're trying to tell us that we will still ship it over to Japan but we'll be outlawed to use it in our own homes. Nobody's going to give it to us, we'll have to buy it. But we're going to burn coal and let them burn gas.

Waugeman: Well, I don't know what (IA) contract already been let on (IA) this

sort of thing. All I'm saying is that gas is too good to be used for heating purposes. When you have a requirement for this high quality element for the purposes of (IA). There's darn few substitutes for gas, for petro-chemical (IA) and if we have a substitute (IA) substitute (IA) that's coal. Now what is wrong with building a power plant that can furnish you with electricity to heat with?

Rep. Osterback: That's not the question, the answer to the question I asked. We're going to outlaw ourselves through Washington that we can't burn gas but we're still going to ship it to Japan and what are they going to do? It's too good for us to use, but it's fine for the foreign countries?

Waugeman: Well, Japan uses it for heat because they use it for petro-chemical use?

Rep. Osterback: That's the question I asked you.

Waugeman: I don't know. I'm just saying, all I'm predicting is what I think the Federal Government is going to do with regard to a fuel policy for the United States. After all, we don't have 15 (IA) of gas return (IA)

Rep. Osterback: Thank you.

Sen. Poland: Representative Huntington?

Rep. Huntington: I have to kind of disagree with you on your use of coal potential on the basis that environmentalists seem to be pretty successful in blocking all uses of any kind of energy that has a puff of smoke to it.

Waugeman: Well, actually, when you take the analysis of the coal in the Beluga field and the Nenana field and well, those two main fields which are both accessible somewhat to the rail belt (IA) The sulfer in coal, in the coal, is low enough that they will meet the standards very easily. So the initial standards, to be exact, are no problem.

Rep. Huntington: Thank you.

Sen. Poland: Representative Brown.

Rep. Brown: Thank you Madam Chairman. Mr. Waugeman, you indicated that you thought that the resource more likely to be developed was (IA) a good portion we're talking about (IA) regional corporation (IA)

Waugeman: Well, I've - the State, I hope, will never see (IA) they would turn it over to somebody else.

Rep. Brown: I realize that, but I'm saying in that you (IA) way you introduce yourself (IA) you apparently feel that it's more likely to be developed, I'm just asking...

Waugeman: Yes, it's much better (IA) Cook Inlet. What I'm, what I really meant to say was I can see a great possiblitity of the Cook Inlet Region going into (IA) Now if you're going to build a power plant (IA) and put in full (IA) the only way you can go with that outfit is to have them own their own coal mine. We can't be dependent on somebody else for the coal. So (IA)

Rep. Brown: I notice that electric rates in Fairbanks is (IA) recently (IA) oil company that did not own coal resources.

Waugeman: Well, that is not the problem in that town. (IA) increase, that surcharge on fuel is for oil, not coal (IA)

Rep. Brown: I was, if you like playing games there a little bit, but at any rate I have, after showing all the disputes (IA) the Administration from earlier questions, I'd like to at least point out one thing to you. You were talking about the discouraged attitude of the people and miners and that (IA) in developing an industry (IA) requirements of the State and the attitudes of the Administration. I hope you did know that I did, at least on one issue (IA) the Administration did withdraw the sale relating (IA) to the mineral (IA) act.

Waugeman: Reluctantly.

(IA)

Waugeman: I like to be nice, too.

Rep. Brown: That's all I have to say.

Sen. Poland: Thank you Mr. Waugeman. Now a gentleman who's been most patient, the president of the Cook Inlet Native Corporation, Mr. Roy Huhndorf, and his attorney, Monroe Price.

Huhndorf: Thank you. Chairman Poland, Chairman Anderson and members of the Committee. My name is Roy Huhndorf and I am the President of the Cook Inlet Region, Inc. I had planned to give more than a blanket talk today but knowing that you're pressed for time, I shortened my presentation. The Cook Inlet Region Corporation consists of more than 6000 native shareholders.

Sen. Poland: Mr. Huhndorf, in all fairness to you, we think that we're going to be able to get a building for an additional four hours tomorrow and I hate to see you cut your testimony unless you feel that you can do so without harming your presentation.

Huhndorf: I will be happy to answer all questions that you may want to ask and perhaps continue with my presentation tomorrow?

Sen. Poland: You go ahead and take all the time you want.

Huhndorf: The Cook Inlet Region Corporation consists of more than 6000 native shareholders, most of whom are residents of the State of Alaska. I welcome the opportunity to appear before you to discuss the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area."

I come here as part of a long journey, a journey to secure for the people of Cook Inlet Region their land entitlement under the Alaska Native Claims Settlement Act.

The land that Cook Inlet obtained under the Alaska Native Claims Settlement Act is its birthright. We must protect that birthright. If we failed to protect that birthright, through inside selection of lands, the historical claims of our people might forever be lost or slowly reduced to nothing. The Region would be taxed out of existence shortly after 1991. There would not be a viable corporation.

In 1972, after the Act was passed, the Secretary withdrew what was mainly

mountain tops and glaciers for the Region. The State had already patented most of the low-lying land in the Region. Virtually all of the remaining low-lying land was committed to the State by the Secretary of the Interior in September, 1972 when Alaska vs. Morton was settled. This was done without consultation with the Region even though our interests were substantially affected.

The State had taken the land that the Federal government should have withdrawn for Cook Inlet Region under the Act.

This was the situation faced by our shareholders for over two years. In 1974, Senator Jackson and Congressman Meeds promised legislative relief for Cook Inlet Region. It appeared that a just solution could be worked out. On the event of such a solution, as it became clear that there was Federal support for our cause, Cook Inlet Region was urged by the State to change its legislative strategy so that the interests of the State's citizens would be better harmonized with the interests of Cook Inlet's shareholders. The Borough urged the Region to change its legislative goals and remove the Campbell Airstrip, Point Woronzof and other lands from consideration in the draft legislation then before Congress. In effect, the Region was urged by all sides not to look selfishly at its claims for a just settlement of its entitlement under the Alaska Native Claims Settlement Act. The Region was urged to work out with all the competing interests what would be a rational and thoughtful approach in which public needs could be melded with private needs.

This was one of the most difficult periods in the Corporation's history. We were being asked to abandon our past course of action and set out on an entirely new approach, one where we could be asked, where we would be asked to put the claims of the Region in the context of the general public interest.

Let me recount some of the hurdles that this new approach placed in our way: We were being asked to abandon claims to Point Campbell, Campbell Airstrip, and Point Woronzof in light of the Borough's interests. We were asked to abandon claims to the Swanson oil fields so that the present income of the State of Alaska could be maintained. We were asked by environmental groups to abandon claims that would affect the recreational interests, not only of Alaskans, but of the American public. We were asked to abandon claims that would adversely affect wildlife habitats or that would impair the quality of water. We were asked to abandon claims to lands, even though they were withdrawn for the Region, because they were located near potential capitol sites.

The Region agreed to work for a thoughtful general approach that would demonstrate that the interests of the native corporations would be consistent with the interests of the State as a whole. It was critical to show that the native corporations were concerned with orderly growth.

This approach meant more than eight months of constant negotiations. Working out a thoughtul solution has had its physical and mental toll on the voluntary, volunteer members of our Board of Directors who gave unselfishly of their own time.

We bargained in good faith. We followed the rules imposed by the State. I do not think we should be penalized for that. We thought

we had reached a settlement last December. Now, Madam Chairman, we fear that the bargaining rules may be changing after a settlement has been reached.

To be sure, we are not altogether pleased with the outcome of the settlement. We have had to shift more than half our land outside the boundaries of our Region against our will, and only with the deepest tolerance and concern by our sister Regions. The total surface land to which the Region is entitled has been reduced. We have agreed to a greater State and Federal role on some of our lands than would be the case under the Act.

Our village corporations were required to abandon selections in Lake Clark. We surrendered claims to other very valuable and important lands withdrawn for our selection. These are points that are overlooked. It is also overlooked that the native people lived on and occupied all the low-lying land in this area. The Act provides that the land for the native corporations should be similar to village land. Our Region is the one Region where the State had patented almost all such land for itself.

Also overlooked are some of the benefits to the State in the agreement. In the absence of the agreement there are certain hazards for the State. Some of the problems faced by the State in the absence of a negotiated settlement are as follows:

Possible elimination of a steady stream of income to the State from producing federal fields. Possible elimination of the chance to receive immediately the Campbell Airstrip for the Anchorage Borough. The possibility that the Ninth Circuit or the Congress will set aside the 1972 Agreement between the State and the Federal government on the ground that the agreement breached the federal trust responsibility to Cook Inlet Region. Long and painful litigation for every piece of land to which Cook Inlet is entitled. In addition and conversely, the State adds substantially to its Statehood entitlement. It improves its bargaining position in the upcoming Section 17, D-2 negotiations. The agreement also provided the State with its only coastline on the west coast of Cook Inlet, south of Tuxedni Bay. More generally, the agreement seeks to improve land holding patterns from the Talkeetnas to the mouth of the Kvichak.

Madam Chairman, I want to, at this time, also touch on a few issues that have become of particular concern.

The first is the relationship between this agreement and the Statehood Act. I have made it clear to the Chairman that we did not seek an amendment to the Statehood Act nor did we consider such an amendment necessary to carry out the terms of our agreement. The House Judiciary Committee in the House Journal for April 21, 1972, explaining A.S. 38.95.060(b), suggested that subsurface transfers could be accomplished by three way transfers with the Secretary of Interior. We relied on that suggestion and on our interpretation of Section 6 (i) of the Statehood Act. We maintain that there was no need for an Amendment to the Statehood Act for our transfer.

We fought to have the amendment removed from the Cook Inlet provision of the Statute. Second, there is the question whether this transfer is a bad precedent. No Region in Alaska had the concentration of State patented lands that faced Cook Inlet Region. In the first ten years after Statehood when these lands were selected by Alaska, the State was already on notice that the Natives had claims to such land. It is only because more than five million acres of low-lying land had been patented to the State in Cook, in the Cook Inlet Region that the Federal Government and the Congress looked to the State for participation in the solution. It is doubtful that this Legislature, this Legislature will find another instance where this is the case.

Third, there is the question of procedures for such land trades. I assure you that we support legislative efforts to make clearer the procedures to be followed by a Native Corporation seeking to work with the State. We have suffered because of the lack of such procedures. I think Cook Inlet did the best that could be done under the circumstances. We think such procedures should provide guidance on the following issues:

What steps should be taken to consult with local governments where land to be traded is in their vicinity.

At what point should the intention of the State to engage in exchange negotiations be made public and what steps should be taken to notify the public.

What role should the public play, if any, in the exchange negotiations.

At what point should tentative agreements be made public.

What size transfer agreement would be referred to the Legislature.

Under what circumstances, if any, should there be subsurface transfers. And if there can be such transfers, what special procedures should be developed.

How should value determinations be made, particularly for large tracts where there are no present obvious ways of calculating value.

Fourth, there is the question of the Beluga coal lands. These lands were a crucial part of the bargain. The State precluded all known producing oil fields. The Cook Inlet Region concurred - if the Beluga lands were included. We then agreed, after very hard bargaining, to the exclusion of over 75% of the coal-bearing lands because they had Mental Health status.

I believe this was a fair bargain. I also believe that erroneous figures have been employed to inflate the loss to the State and the gain to the Cook Inlet Region. The coal in the Capps Glacier lease is not clearly economic in the short run. It is uncertain that it will be developed before the coal in the Chuitna lease (coal that remains in State ownership). If that is so, the modest figures in the State geology report may, themselves, be too high.

It should also be made clear that the State had already transferred to private parties the right to extract the coal. If the State lost it's coal future, it is not because of this transaction, but because of the leases it entered into some years ago.

Finally, it h s already been made clear from preliminary talks with some of the lessees that Cook Inlet will not be able to profit from the coal unless it contributes, through capital, to the acceleration of development. Our feeling is that we will be a good and helpful partner as lessor; better, we think, for the economy than the State as a partner.

(tape four)

And finally, Madam Chairman, I wish to summarize by saying that this agreement is a difficult and complex one. It represents months of negotiations, of consultations with the Anchorage Borough, with the various interests that are involved in the future of Alaska. It has been praised by Congressman Don Young. The Alaska delegation unanimously supported it.

It passed the Senate and House of Representatives unanimously. I am glad that the agreement is the subject of these discussions under your careful guidance. I am glad that questions as to the Governor's authority will be clarified by the Legislature's action. Many technical questions will arise as you go through your process of deliberation. We are ready to answer those questions. Our very future is at stake. We have done everything that we think could reasonably be expected of us. We are now asking for your support and approval.

Sen. Poland: Thank you, Mr. Huhndorf. Are there questions? Rep. Beirne.

Rep. Beirne: Madam Chairman. Mr. Huhndorf, in your testimony you refer in one place here to where the State (IA) transfer to private parties like (IA). Could you expand on that?

Huhnsdorf: I'm referring to the existing State leasing procedures (IA) so that the prospecting firm that's going to lease (IA) fixed a (IA) royalty (IA). I believe the figures are ten cents a ton.

Rep. Beirne: Does that mean then that if agreement is negotiated and you become the owners of this land (IA) anything lease which now is in effect will remain in effect and you have to honor any negotiations that have taken place prior to this.

Huhnsdorf: We believe that it is necessary (IA) lease.

Rep. Beirne: How large a portion (IA) that lease?

Huhnsdorf: I believe the entire tract in question is under some sort of computer contracting firm (IA) leases or leases themselves. Our geological consultants indicated that (IA) I would have to get the actual map and look at it but it appears the entire area in question would (IA) some preliminary (IA).

Rep. Beirne: Mr. Huhnsdorf, that means that you actually have purchased a land lord's rights, probably negotiations (IA).

Huhnsdorf: That is essentially correct.

Sen. Poland: Representative Brown.

Sen. Brown: I'd like to follow that up. In your statement, you stated that your understanding of, I guess the economic development of coal in that area was the developers or the people who have the leases might not be developing it but for future capital from - in your case, if the swap goes, the Cook Inlet Regional Corporation, if it is your understanding, have you been advised by those you consulted with that this is the case? Did I understand you?

Huhnsdorf: Yes. It is expected us (IA) to inject capital. We want to inject capital and (IA).

Rep. Brown: Well, there's at least some room for speculation that if the land remains State land, there might be some problems developing over coal resources (IA).

Huhnsdorf: I can't speak to that.

Rep. Brown: I notice on page four of your statement you said that the Cook Inlet Region surrendered claims to other very valuable and important land withdrawn for it's selection. Can you give us one or two examples of that?

Huhnsdorf: One example is approximately seven townships in the upper part of the Susitna-Matanuska Valley that was withdrawn for Regional selection (IA).. another area (IA)..

Rep. Brown: What are those townships (IA).

Huhnsdorf: There's basically only low-lying lands that come to us under normal withdrawal the Secretary made to us (IA) The other lands include the West side of the lower inlet about (IA). We desire to obtain those lands, therefore, we agreed to have the Secretary handle this withdrawal for us.

Rep. Brown: Have you already, have you made an irrevocable decision in relinquishing these claims (IA) position (IA) so that you wouldn't be able to go back and regain these claims without a lot of litigation and problems?

Huhnsdorf: The Statutes of the U.S. Congress guarantee that our rights will be re-established if the State (IA).

Rep. Brown: I'm very interested in, in the comments that you had in your statement on page six where you said that the Cook Inlet Region had suffered because of the lack of procedures for dealing with these trades. I'm sure you might have heard under my breath (IA) Osterback, he's suffered too. He's seen some of the pushing and pulling going on between the administration and the Legislature recently in this regard. I find the comments you make on pages six and seven very helpful, but, at least as far as I'm concerned, those address the things that I'm most disturbed about in this land trade. In my view, at least, many factors that - the things addressed in your statement are also some of the political realities regarding (IA) have done and other things that at least make me tentatively support the land trade. But, I am very distressed about some of the procedures that were followed by the administration and the lack of procedures and, at least what looked to me, like a lack of any involvement of the Legislature (IA)...if you were disturbed about something like (IA) administration, they were addressed to the procedures involved and I would not attempt to express an opinion on the substance of the trade itself. I suspect that we might have to, or we should go a lot broader in the areas of those things discussed on pages six and seven so that rather than just involving issues involving likely trades with native corporations, but other matters involving unilateral dis..., you know, prejudicial disposition of State resources by the administration with no Legislative input. That sort of thing could be addressed by (IA) and I thank you very much for your time in that regard.

Huhnsdorf: I would ask, Madam Chairman, that all (IA) Monroe Price our legal consultant in this matter (IA). He has been intimately associated with all of the policy (IA) documents that have been written inviting the trade and if there are questions that you want to ask him after I'm through, I'm sure that he'll be happy to answer them.

Sen. Poland: (IA) I had a question for you, Mr. Huhnsdorf. You know, this

consistent mention of the possible and probable Legislative relief that the U.S. Congress would provide for Cook Inlet in the event that the State didn't take any action here. You probably have an idea of what that might entail. Would you like, perhaps, to describe generally what you could expect in a settlement with someone other than the State?

Huhnsdorf: It would be difficult for me to say what would happen in the event that the Federal Government had to, Congress had to determine (IA) Cook Inlet on the grounds (IA) State participation. I can only say that our position, in my mind, is stronger than (IA). I say that because if the State, with the State now trying to participate, (IA) feeling I'm sure is (IA) I don't know what view Congress would take of that (IA) they could simply write that off as possible (IA) without paying as much attention to (IA) as they did (IA) personal. Maybe it's wrong, maybe that's not the case, but I know last spring when the (IA) was going on in the newspapers in Washington (IA) Congress was paying a lot of attention to the Anchorage Borough and to the State, and I'm not so sure that they'll do that next time.

Sen. Poland: You say that they wouldn't be, in your opinion, they wouldn't be, they would be less sympathetic to the State's needs if the State doesn't conclude the negotiations.

Huhnsdorf: Right. Well, and I don't want that to sound as a threat. I don't mean it as a threat. I just think that the situation, if the State (IA)..because for very real economic reasons it is impossible. The Congress might not feel that way.

Sen. Poland: Representative Huntington.

Rep. Huntington: Mr. Huhnsdorf, I'm very sorry to see this situation here (IA) football, but, at the same time, the agreement you have with the State now, the negotiated agreement, do you feel that your Region will become completely satisfied if there was no alternation to that agreement and it went through as is?

Huhnsdorf: Yes, sir. I believe the settlement represents a carefully balanced and carefully calculated working out of all the differences and kind of like (IA) so that I would say, that yes, it is a very finely tuned agreement for all three parties are in basic agreement. I think that would be the situation.

Sen. Poland: Senator Rhodes.

Sen. Rhodes: Mr. Huhnsdorf, I'm a little bit curious why, especially with regard to the Beluga lands, the Cook Inlet Region would be terribly anxious to accept them. There are leases on all the lands. The royalty on those leases is extremely small, the State literally gave those lands away to the detriment of the taxpayers and I can understand the State wanting to transfer that land, and I'm curious as to why or possibly how Cook Inlet envisions it will manage these lands to the best of it's corporate ability.

Huhnsdorf: We, as negotiators, are taking into consideration the fact that, under the existing Federal withdrawals, no more than six townships, if that, of land were available for Cook Inlet, that would satisfy the (IA) under this agreement, there are twenty townships, and that, to my Board of Directors, is very good

attractive and whether or not there was coal, whether or not the coal was leased or not, the surface value had a lot to do with decisions (IA). The very fact that we were getting land surrounding (IA) and these lands were low-lying (IA). That was one of the big considerations (IA).

Sen. Rhodes: Madam Chairman, I have one more question. In considering the value of the portion of the Beluga coal fields that would be conveyed to the Cook Inlet Corporation, has the spector of increased taxation on resource taxation, on these lands been considered by the Cook Inlet Corporation? The lease royalty is extremely low and there is a possibility that there may be additional increases at some point in the future in terms of (IA) Was this taken into account by the Cook Inlet Region and, if so, what was your analysis of it?

Huhnsdorf: Yes, Senator, it was. All I can say to that is that we do ourselves a good favor. We see the potential for (IA)under the (IA) we feel we can take our chances.

Sen. Poland: Thank you very much. Representative Beirne.

Rep. Beirne: Madam Chairman, may I just ask one question (IA) clarify my (IA) on coal (IA) a certain period of time and then we support the possibility of coal not really being (IA) for use for a long period of time, wouldn't it be a possibility that those leases will have to be renewed and that (IA) re-negotiated.

Huhnsdorf: That's a possibility.

Rep. Beirne: What would be your estimate of the time frame if we ever do use this coal for energy, when would that be? How long a period of time?

Huhnsdorf: I would agree with most estimates, the time frame would be (IA) early 1980s (IA)

Sen. Poland: Mr. Huhnsdorf, I'm going to ask you a question that you and I have discussed so I know the answer, but the reason I'm asking it is for the benefit of the Committee and the audience here is that, the first time that the select Beluga Committee met with the State, they said that Cook Inlet was not interested in the coal - you do intend to draw out the coal?

Huhnsdorf: Yes, we do.

Sen. Poland: Thank you. And I also wish to express my appreciation and I'm sure other members of the Committee here, on your thoughts on amending the Statehood Act. I know from earlier discussions with Mr. Huhnsdorf that this was true from the very beginning. They did not feel (IA) was needed and opposed and the State now tells us that they didn't feel it was needed either. We've now been left with Congressman Young wearing the hat of amending the Statehood Act, and I intend to talk to Congressman Young because I don't believe he dreamed that idea up by himself.

Huhnsdorf: Madam Chairman, we know that the Dept. of Interior wished that (IA)

Sen. Poland: I think you're exactly correct, Mr. Huhnsdorf. Representative Brown.

Rep. Brown: Mr. Huhnsdorf, Senator Rhodes asked you some questions about whether or not the (IA) tract is considering (IA) subject to the leases that most people in the State have had a relatively low royalty. But you also said, in your statement that the Cook Inlet Region may well be, you'd be putting capital rather than just asking or (IA) the people with coal (IA) leases into contingency development and maybe as a suggested and speculated answer to that, one little bit of leeway that you may have that the State does not have, is to re-negotiate those leases and getting higher (IA) if you're offering the developer capital to aid the owner in development of the resources so in addition to the question of renewal appearing, it also gives the idea that you're entering into the business transaction involving diffusion of capital, might well end up re-negotiating the lease. I would be reluctant to (IA) capital basis myself.

Sen. Poland: Are there further questions for Mr. Huhnsdorf? Representative Osterback (IA)

Rep. Osterback: Yes, Mr. Huhnsdorf. How, I still can't get it clear, how long will the State lease, if you do get the land? Will they expire in five years or two years or (IA) they expire based on the lease (IA)

Huhnsdorf: The leases are written in such a way..I'm not quite sure I understand that legally, but they're written in such a way that the holder can virtually perpetuate his lease holdings and there really isn't too much other than re-negotiation to some degree that the holder of the lease can do. And I know I told you at the proceedings that we will be the administrator of the lease, we will negotiate to the extent that we can to improve any detriments that we might be able to (IA) of the leases. But, again we don't see any real way of breaking the State's contract with the existing lease. We have not sought to do that, nor do we want to do that. We think that (IA) and we're prepared to live with that and do the best we can.

Rep. Osterback: Thank you.

Sen. Poland: Representative Cotton.

Rep. Cotton: Thank you. Mr. Huhnsdorf raised the question in his testimony that I have for Mr. Smith and he brought up the question of, if I could direct the question to Mr. Smith, the question of the procedures for such trades; and, apparently the legality is somewhat in question whether the administration can do it by themselves without the approval of the Legislature and this is still in question, I assume.

Smith: (IA) The administration, after looking at the Statutes (IA) particularly the Statutes referring to Title 38.095 (IA) code permitted the same type of trade for the purposes of consolidating land ownership and management that was alluded to in Section 22(f) of the Claims Act. In that Section of the Claims Act, Congress gave the Secretary of the various Federal agencies the right for making this type of trade for land management and ownership consolidation purposes. Two months or three months after that bill was passed, the State

Legislature passed the Statute I just made reference to using some of the exact language of the Federal Act. So that it is our feeling that this trade dealing those criteria does not meet this Legislative context (IA) approval from a legal standpoint, I believe the Governor (IA) made clear (IA) a couple of things. One, it is a very large land trade - it does effect a sizeable amount of acreage and in the vicinity of 50% of the State's population and, as Senator Poland indicated that she and the Legislators would like the time to review, that was a very important feature. Secondly, and this was brought out again this week, he feels that the people have raised questions about whether or not such trades as this are legal whereas he feels that they are. He has said to the Legislature, while you are looking at this trade, if there is any question concerning the legality, we want you to vote on it. If you approve it, we feel that you approve the trade and having gone through that process, what with the addition of the administrations the last year, let us sit down and make sure there's no question about the method in which future land trades will be conducted; because, I think we feel quite strongly, having looked at what has happened during implementation (IA) that future land trades are going to be absolutely necessary if we're to have the type of action passed that are needed. They're probably aware that selections have occured right in the heart of two of our State parks and there has been an indication, certainly by the Legislature initially, that they felt these suitable (IA) set aside for park purposes. So, if there is to be a trade out, the administration is working with the Legislature. (IA) have by the administration can testify these procedures on how the Senate (IA) can set up some type of bill, perhaps emerge after the Legislature. Address (IA) trade (IA) to make sure that all agree in the future on this question of is it legal - what is precisely, the way to go about doing it no more is in question.

Rep. Cotton: Okay, I just have one further question. I wanted to know..in that case, I just interpret from your previous testimony and Commissioner Martin's previous testimony that this trade is going to kind of establish a precedent and I just wonder, and again, the point that Mr. Huhnsdorf brought up, what size transfer agreement should be referred to the Legislature. I mean, do you feel that that would be included in any legislation? Do you think that...

Smith: Well, it's (IA) that the Legislature at some point has a need to decide something. I think it would be an appropriate thing to view. I think I can say safety that I don't view the type, certainly not the complexities of the trade such as Cook Inlet and would feel (IA) something that was moving on the rise with the exception of the D-2 property because the landowners stated that already (IA) Claims Act which would be more or less between the State and Federal Governments (IA). I would emphasize the point that, yes, this is a first time, it is a pilot operation. I can safely say that it is the, by far the most drawn out, the most meticulously discussed and negotiated trade that affects State land. Many of the others, because of political necessity, (IA) just larger had to be done much quicker. For example, the State's monumental land selection four years ago last month. That probably could never have gone through what was gone through today.(IA) The Governor had indicated that public process and the opportunity for people to review, I mentioned earlier is subject to change, this is the process that we (IA) is appropriate (IA) from what we've just done and trying to look ahead with the help of the Legislature to set up a proper course for the next (IA) impossible. But this is the first attempt to do it.

Rep. Cotton: This is kind of a unique trade. I think most people agree to that. I mean, a unique situation. Other than the upcoming deed to the possible negotiations of those lands, do you have anything else in mind in the near future?

Smith: Well, as example, (IA) the most important (IA) that I foresee on the horizon are considerably smaller and just a minuscule amount compared to this one. There will be hearing later on in the month concerning proposals about somewhere between sixty or seventy acre land trade in the Yakutat area. We have (IA) selected a (IA) State park(IA) the village is included in that, up to two townships of land or close to it in this or close to the Chugiak forest right behind Anchorage. We have a number of situations, we have been approached by other people and corporations who, looking at their land patterns which by the formula in the Claims Act (IA) land ownership pact some anticipate the same thing. We've got the (IA). We've got the land, perhaps we can work together. I believe (IA) the State will be involved in for many years obviously recognizing the (IA) the Claims Act was passed, and it's starting to come home to us now. I think you realize the reality of the situation.

Rep. Cotton: In other words, then, if we would establish somewhat of a precedent here, in the future, smaller trades that you mentioned there that the Legislature probably wouldn't come into participation in those cases.

Smith: Yes, that's the present criteria. With something like the Yakutat situation, first, perhaps, long public hearings will be involved there. This is (IA) attitude (IA) this is why the government. (IA) Legislative point of view (IA).

Rep. Cotton: Okay.

Sen. Poland: Representative Anderson.

Rep. Anderson: I became concerned here, Mr. Smith, when I was told by one of the Bristol Bay Native Corporation officials that they had not been notified of, or that the State had failed to notify them of what was really going on. I read about it in the paper and wasn't too concerned because I naturally assumed that the State had made it's contact in Bristol Bay and would assume, since I represent that district where land is being talked about being traded, and the Chairman of the Resources Committee, I felt that I should have been notified, I mean, of the up-coming decisions that were being made. I think it was sloppily done and I think that both the Senate and the House Resources Committee members should have been notified of what was going on and I think it's causing the Cook Inlet Region some very serious concern now because of the sloppy manner in which it was handled. I think that's why I object to the...I wrote a letter to the Governor expressing my concern and I also sent a copy to Senator Poland stating that we certainly hope that in the future, some method of alerting the appropriate committees in the Legislature, or at least inform them what they intend to do. I think that may interest in the area is also, with the position that I have as House Resources Chairman in the Beluga area, we're talking about sub-surface minerals that the State is entitled to and we ought to take a very close look at that. I'd be very greatly, I mean, I'd be very happy with what Cook Inlet's been able to do - they've come down to Juneau at great expense - I know they've spent an awful lot of time doing the job that I think the State

government should have been doing and speaking as (IA) what's happening. And I think I'd like to compliment Mr. Huhnsdorf whose been extremely patient and I hope he won't be too - I hope he'll be patient a little bit longer because we do intend to look into this a little bit more.

Smith: I would like to say that, in respect to the area you represent and the Bristol Bay Native Corporation, the only impact on the area with respect to land ownership would be possibly twenty-five (IA) of land which the State (IA) title to and the State, under the Statehood Act, has a right to select land. The State, because of (IA) really not involved in land selection since the Claims Act was passed. That's like trying to tell (IA) what the State policy should be with respect to the public process of selecting future land. I think the extent to which the State is required or obligated to (IA) select lands for public trade, in a way, that's something we should very much discuss..what I'm trying to say is we are not in any way (IA) in the area, we were, in fact, putting State preference in the area (IA) nine days before the public hearing was held that the Div. of Lands (IA) each and every legislator in the State of Alaska Legislature gave notice of the public hearing, when and what it was, and where it was going to be held and two days before that time all (IA) President of the Senate and one or two other hearings of the Legislative Council which was going to be meeting in Anchorage and they made an exclusive offer to give them full and complete agreement concerning the matter and only after Representative Cotton showed up at the meeting. So, to the extent that you feel that the legislators are not contacted, I think I can say that the administration made a two phase attempt at that time to bring the Legislature on board, and it was not until the following month (IA) made through Legislative Council that we were even aware that the Legislature had been (IA) because as I say, we had tried (IA) unfounded. But I agree (IA) mentioned before that (IA) good outcome of this whole process may be the codification of the process in the future which both the administration and the Legislature would proceed along in the accomplishment of any future land trade.

Sen. Poland: Representative Kelley.

Rep. Kelley: Yes, earlier, Mr. Smith, earlier in your testimony you stated tha. the lands in the Beluga coal field which are not in this land swap, talking to the people that have the leases, that they felt those areas would be developed first, is that correct?

Smith: Yes, (IA)

Rep. Kelley: Okay, my question is, that when speaking to them, that, at that time, did you ever speak to them about the possibility of this time frame being reversed if, indeed, the land swap was to go through and the Native Corporation did, indeed, go partnerships with them in developing those leases? Would that reverse, you seem to be very strong on the feeling that the others would be developed first and I can see a very strong potential for the opposite happening, that the land...

Smith: It's hard to say exactly from (IA) how they view the operations. They expressed apprehension to me early when we made the State proposal public, we talked to them, let them know that we're interested in protecting (IA) and they

indicated a bit of apprehension there that they might in some way, in both cases, through future capital or (IA) whatever, be pressed into a (IA) developing their operation and we assured them that they were the lessees, in both cases and it was strictly up to them to take (IA) position or (IA) land owner (IA). A land owner might be, such as Cook Inlet (IA) mitigated (IA) indicated attempt to speed up development of those areas (IA) area I could not say right now whether (IA) measurable effect on that land to develop (IA) economic basis (IA) develop (IA) assumes that the leases (IA) would be developed first and we made the assumption that the State holdings would not be developed so we've given you the worst scenario in that respect (IA)

Sen. Poland: Any further question for Mr. Smith (IA). Thank you very much, Mr. Huhnsdorf. Dave Jackman.

Jackman: Madam Chairman, I appreciate this opportunity to appear before you. I'm David Jackman, State Co-Chairman of the Federal State Land Planning Commission for Alaska. I want to first review the actions of the Commission with respect to this land trade and make clear that the Commission at this time has nothing further to add regarding subjects of the land trade and then, second, to offer some of my, some thoughts on this trade that are solely my own. And I want to make this clear too, today, at this time. The Commission was presented with the rudimentary outline of this land exchange at one of it's earlier meetings which occured during the period of time that the Omnibus Act was being debated before the United States Congress. They communicated their views of general approval for this kind of a land trade effort. I think there are many of us who were concerned that when the Alaska Native Claims Settlement Act was passed, that it had laid the groundwork for, you might say, the callous dismembering of the State of Alaska - that if anything was to be gained in the long run, it required the greatest of efforts of all the parties involved, State, Federal, and Native, and try to make the best of what on paper looked like some rather unreasonable or unrealistic land patterns. The Commission viewed this proposed trade very much in that context, as a very highly motivated effort to try to resolve these kinds of problems which are likely to occur time and time again in the next few years in this State. At that time, the Commission did not have the ability to, given the other issues before it, to delve in great detail into the substance of the exchange and they have not done so as the meeting is adjourned today. But they did authorize me to say, and took formal action on this yesterday, again, supporting legislative reform, State law legislative reform, which would set down guidelines and procedures and standards for trades of this kind which would make, hopefully, a, would set a pattern so that important trades of this kind can be formed where there is reason for them, to move away from the strict equal value cash appraisal type of judgement to something that can successfully lay out the benefits in cost in a way that will make these trades possible in the future.

That was the conclusion which the Commission reached and that is the recommendation that I bring here today.

Second, on my own thoughts regarding this exchange, I want to say that I have the utmost respect for the efforts of all the parties that are involved from (IA) very much from the sidelines, I have been impressed greatly with the diligence with which and the good faith with which the parties have bargained and for the overall integrity of the entire process. I think that the Alaska Native Claims Settlement Act must be, we must remember that it was a Federal

settlement and I refer back to the remarks of Mr. Huhnsdorf has just made; therewere many unfortunate aspects of that settlement as they affected the Cook Inlet Region. The State, I think, wisely took notice of this and made every effort to cooperate in a wise and more just resolution of these claims. But I think at this junction, the State must look at this as eventually a land trade. The authority and the guidelines that are laid out in the State now, the law now speaks of equal value. Perhaps not equal value in a straight cash sense but the State, whatever the Federal failures in implementing the Settlement Act, they were Federal failures. I would submit that the State was not morally culpable in creating the situation in which Cook Inlet found itself. I want today to very briefly lay out what I see as some of the issues which have not yet been addressed. I think I can put your mind at ease - I'm no expert on coal nor do I intend to address (IA). As a matter of fact, and I've studied over this agreement, the Beluga coal field aspect seems one aspect that is least subject to question, (IA) my mind.

But I would like to try to note some issues that I think raise questions that must be answered before any of us can strike that final balance sheet. There is uncertainty involving this land trade, the count has been made several times that a lot remains to be done, that in a sense the selection period has been extended for two and a half years and that's the first point I'd like to make. I hope these questions can be answered, but I think there are major ones that we have to address. The extra-regional selection rights, as I'm sure you know, Cook Inlet has an opportunity to take another two and a half years to look at available Federal lands outside the Region and nominate lands that may be desirable for it to select, and also it can select up to about thirty townships of those lands. This provision underlines the basic theme of what I'm trying to say. It is very, very difficult to appraise what the ultimate effect of that provision will be. To begin with, those lands, absent this provision, would be lands the State could select. So there's clearly a cost involved to the State of Alaska and Cook Inlet and that's the provision in the agreement of extra regional selection rights. Let me explain that. These lands can be drawn from the so-called 17-D-1 lands or what remains of the public domain lands outside the region. The State has up to about, I think around thirty-five or forty million acres left to select in the Statehood Act entitlement (IA). Now, it's probably reasonable to assume that Cook Inlet will act in a rational manner and will try to find lands that will have high resource value, perhaps not just developable resources such as coal, minerals, oil and gas, but low-lying lands that may have other attributes that make them desirable. One of the main motivations of this exchange was that otherwise, they would wind up with mountains and glaciers. So, they're going to be looking for desirable and valuable lands and I only note this as a cost, or a loss, that has to be addressed in the equation because in effect, your displacing thirty townships that might otherwise rank fairly high in the unfolding scheme of State selection. And the loss in value, in my mind, would be roughly equal to the difference in value between those thirty townships off the top and the last thirty townships the State would otherwise be able to select in this thirty-five or forty million acres. And if that value were only $50 an acre, you're dealing with an order of magnitude of $60 million, so it is not an insubstantial consideration. On the other side of that question, and there is another side, it's quite possible, I suppose, that the United States Congress should decide that they've had enough of State selection and that all Federal land should be closed to State selection, that States should not be allowed to fulfill it's entitlement.

If this happens, there will be no loss, clearly; but I think that it would be a rather unlikely course of events.

The other thing that worries me about these extra regional selections, and there may be answers, I hope that there are, is that we have, within the Region, tried to consolidate land and improve land management patterns. But by creating the prospect of extra regional selection, thirty townships which can be selected in tracts no larger than one township, we create the prospect of several new isolated tracts of private lands scattered around the other areas of Alaska which may create land management problems of the very type we're trying to avoid to begin with. It's very difficult to know. They could all be consolidated in a single block in a very logical way, but they could be scattered in thirty separate tracts hither an yon across the State. So, all I suggest is there is a trade-off there that should be addressed.

There is a township pool a six township pool that will be created on land within the region and it's, the way I understand this agreement, if Cook Inlet desires, they can move any of those out side the region selection site into that township pool and take them within the region where the lands will tend to be more valuable - higher value land. As a matter of fact, the agreement sets forth an acre equivalency standard for those six townships of land based on a rough rule of some value of an acre being worth $500. So 138,00 acres at $500 an acre, again, is on the order of, I think, $35 million. Now, a lot of these lands would have been available perhaps for Cook Inlet to select after this agreement. There would have been surplus Federal property under (IA) of the Settlement Act. There are five categories of lands that could potentially wind up in this category - in the pool. As to two of them, I think they would otherwise have been available so there's no loss to the State there. But there's at least a potential of loss in terms of the other three categories that after this agreement, they would have been available for State selection and they are in the heavily impacted area, the northern Cook Inlet area and then converted back to land (IA). The other side of that coin is that (IA) region selection pool, the State has insured itself the right to consult the Secretary to strike up the 1500 acres. I'm sure that Mike Smith has explained these things to you so, again, my concern isn't that it's a bad deal - but it is unclear what kind of deal it is - that it's very, very difficult to anticipate how that will unfold and what the magnitude of the cost may be to the State.

Some of the plus factors that have to be noted. The Kameshak Bay land is one of the few stretches of coast line that is available on the western Cook Inlet shore. The Mulchatna lands, the Talkeetna lands, no one would gainsay the value of those lands. But even though it's a complex trade, what it boils down to within the region is this; the State's giving up twenty-one townships of land on the Kenai Peninsula and northern Cook Inlet in exchange for fifty-three townships in Kameshak Bay and Mulchatna range and the Talkeetna mountains plus the other factors that I normally term in the extra regional selections.

I think the other thing that's been a recurring theme in the testimony here today is what's going to happen, what kind of risks is the State running, or is the State running now, and they're very real. I think that Congress has, in a sense, indicated that they feel that Cook Inlet did not get a fair shake and that they will make some restitution of this if they fail, if Cook Inlet fails to win their court appeal, and get that kind of a result anyway in the straight-a-way. And in many respects I think the State's, or Mike Smith's pamphlet, has set forth some of the values involved in this trade, has undervalued the likeli-

hood that Cook Inlet may prevail in their court appeal. But, by the same token, I think it's over-valued the likelihood that State lands would be threatened by the outcome of that. I think the most logical result would be a remand to the District Court and perhaps ultimately a mandate to the Secretary that he is to find better lands but first, I think he would look at the Federal land, the D-2 lands, the D-1 in the area.

Turning to State land would at least involve him in more protracted..

(tape five)

(IA)

Jackman: ...they might turn the Swanson River oil revenues (IA) although it's my understanding (IA) copper or minerals (IA) have not been overturned. The State may very well lose the Swanson River oil revenues anyway. So these are answers. They're variables, they're very difficult to calculate. I don't know how they ultimately weigh out, I just know that...

There is a possibility, too, that some of these lands that we're getting in trade, and I'm speaking of the D-2 lands over in the Iliamna area, the State would have received anyway. From my work on Land Use Planning Commission, I think it's fair to say that some weaknesses, D-2 reserve proposal from the Secretary's book, were in Iliamna and the Lake Clark area. And that under 17,D-2 the State can select those lands, they won't receive them until Congress acts. But they can go before Congress and make their case that those lands should not be put in federal reserves and tell them they should come to the State. So again, these lands that we have received in trade that are not available for us to select, now might come to us anyway. I think that's also true with respect to the Campbell tract. There's a question in my mind about what state of affairs had to take place to remove that from public holding in State use which would be the status that's guaranteed under this agreement. I think that it is unlikely, even if it does not pass the State, that the Federal Government would ever have disposed of that this way. That would destroy the protection of the (IA) watershed value, public (IA) state recreational value.

We've spoken of the bargaining position with respect to D-2 lands. That was a very difficult thing to anticipate. Certainly many of these lands have been eyed by the federal agencies as desirable additions to the national park system. But the question in my mind, to what extent this proposal will indignify those receommendations and make it difficult for the State to take another tack with respect to these lands. To sum up, I believe that the uncertainty of this agreement is perhaps one of the most disturbing factors. That here we, in effect, are fleshing out the settlement provisions, I'm speaking of (IA) the actual regional selections. For two and a half years in dispute under 7 (IA) all will share in those benefits, in the benefits of those extra regional selections. And that is as it should be. But we will not have certainty as to land status in Alaska for another (IA) years. And one of the things I think a lot of people have in mind with the passage of the Settlement Act is that all (IA) somewhat will be under (IA) close. We'll be able (IA) State selections and move forward from there. I will reiterate again that I'm only raising these questions because they trouble me and because I think they have to be addressed. And I think that when that (IA) deed is struck, the highest standard of public trust has to be applied because we're dealing with literally thousands and thousands of acres of public land that belongs to all the people of the

State. (IA)

I'm not speaking from prepared remarks today. I want to check down my list to make sure I covered all points that I wanted to cover. One final note on the Beluga coal fields. Again, I'm perhaps less troubled by that section of the agreement than anything else. I think it's clear that most of the valuable coal lands are still within State hands and that the real benefits (IA) coal zones will be just (IA) the spin-off benefits of development and that's almost one aspect of this trade that I think deserves... I'm not suggesting it doesn't deserve further (IA), but I'm really less concerned by that aspect after the mental health lands which were excluded from the trade. I believe that I'll close with that and ask if there are any questions.

Sen. Poland: Senator Rader.

Sen. Rader: Mr. Jackman, we have maybe three or four weeks within which to act on this under the Governor's request. And of course I don't think there's anyway to give that definition to the well thought-out policy which is mentioned here. Do you think there is anyway to give definition to that in the next three of four weeks?

Jackman: I think some of it can be analyzed with some degree of precision. I think that some of the costs involved, probably draft dollar figures can't be tied down, but I think order of magnitude can be approached and I'm not suggesting that I for a minute think that it is improper for any trade like this to go forward in the absence of exact equality of balance sheets. All I'm saying is that I think that over the next three or four weeks all the issues have to be brought out and examined.

Sen. Rader: Do you think that we could by committee report deal with some of these questions and perhaps review some legislative intent as to what the intent is to approve here on some of these State matters or not? Our problem is, we keep being presented with an accomplished agreement that people say (IA) hard to do and the proofs of negotiations and settlement and compromise. It's difficult for us to, at this point, to change that agreement, redefine the terms. We almost have to accept or reject it, don't we?

Jackman: I agree. I'm very troubled by that aspect. I don't think there is. It's a very complex agreement. I don't feel that I fully understand it and I spent several days trying to study it out. It is complicated. I don't know what the answer is. There is one thing that troubles me, it makes it very difficult to evaluate when there are so many exact points or provisions that are sort of yet to be fulfilled. As a matter of fact, I would suggest that if you want, in terms of the Legislature, again I would offer as much technical assistance (IA) trying to think about trades like this, can be provided for, but any one deed would be that transaction before completion in a given period of time, if you follow what I'm saying, is not stretched out over a period of years. But in this case, we are dealing with the same situation, something that will be negotiated in the context of the Omnibus Act. I'm not (IA) that. It probably was discussed (IA) State of Alaska. But again, we still have to (IA).

Sen. Rader: Even if we could qualify some of these dollar figures, you know, and put the values there, or some estimate - so what? Is that going to help us

in three weeks now in deciding whether to approve this or disapprove it?

Jackman: If I were in your position, I think that's certainly where I would start. Look and see if the equities are there in terms on what the State is giving and what the State is getting. Because the other elements, I think, there will be no question of good faith given the intent, the desire to make a better land management decision. I don't think that's assailable.

Sen. Poland: Thank you, Mr. Rader. Representative Brown.

Rep. Brown: My question, in light of Senator Rader's question. Do you think some of these things you've pointed out for the record as being inconclusive could be addressed by, in an equally effective way, by committee report or some form of committee... any kind of legislation, Senate document? Do you have any final proving board at all with respect to some of these questions or do you pretty well have whole (IA)?

(tape six)

Jackman: (IA) valid point because rational mechanism and if so use it for (IA). I think (IA)

Sen. Poland: (IA)

Rep. Brown: (IA) I suppose my question is, do you think that anything along the order suggested by Senator Rader, legislative intent, is going to be of any help at all to State (IA)

Jackman: I think that, this is subjective, (IA) to be effective here (IA) legislative guide telling the State how to execute that. In other words, with respect to what type of land (IA) protect (IA) protect the mechanism. In other words, how (IA) is going to play (IA) as opposed to things that are (IA) agreement is signed subject to (IA) cooperation, in terms of setting a time when this standard under which (IA) will occur. State (IA) there (IA) lands State has opportunity there (IA) select lands which the public would want to inspect things - Cook Inlet will be nominated by us. The State has the right to (IA) those lands could not then be selected by Cook Inlet. That problem could have influence. But I think that you will find that the State's interest (IA) Legislator (IA) and Legislator (IA)

(inaudible portion)

Jackman: Madam Chairman, I wonder if I could go into a little more detail. I know it is getting late. But this extra regional selection pool, the Secretary has protected those lands that are of federal concern. They cannot be drawn from the lands west of 161° West Meridian. I might suggest a very logical place, one place the State can't select. But under this agreement they cannot be drawn from there, they cannot be drawn from any of the D-1 areas included in the Secretary's D-2 proposals. They cannot be drawn from any of the D-1 areas that surround the areas of ecological concern. So what I'm saying is we're throwing - that this pool comes from those very lands that will be the prime candidate for future State selection and they have up to three years to nominate those. We won't know really for two and a half years, I believe, what lands

they're talking about and that's the basic sum of my concern. Also, there is a buffer zone provided as perhaps there should be around other native coporate and village lands. But the very existence of that buffer zone again will create a non-compact, a scattered pattern of private lands which one of the land management objectives that, in my mind, we ought to be trying to get away from. And this one theme I forgot to mention because I didn't have a formal presentation, that is worth mentioning, I think. I think the question could be raised - if the loss of control over these tracts of lands in the northern Cook Inlet area and on the Kenai Peninsula isn't a very great loss in terms of the State's ability to direct or control the timing of development and the disposal of lands, we're really giving over to a private corporation the ultimate decisions on how to dispose of those lands, subdivide them, and what role they'll play in community growth in the most heavily impacted areas of the State. The counter-argument could be made that it's in the northern Cook Inlet, the Anchorage Bowl, the Kenai Peninsula region, that we should really be hanging onto some of the remaining tracts of public land or at least disposing of lands fairly carefully with some planning and design. That's just another factor, I think, that should be weighed.

Sen. Poland: Representative Hershberger.

Rep. Hershberger: The fact that we're hanging onto lands around there, started this whole problem.

Jackman: Sure it did. It was a Federal Government problem. That's my point. And at this point, we have an obligation, in good faith, to try to help with the resolution of that, but I don't think it's fair to say the State was really morally culpable at the time of the Settlement Act or the Secretary's withdrawal. So what happened in this region?

Rep. Hershberger: Now this whole (IA) and questions that have not solved this as far as my experience goes. And I appreciate your concern, very important questions that you raised. Mr. Rader (IA) for three weeks if we have an agreement here that parties have agreed to and certainly some of this must have been thought of at the time that it was entered into...

(inaudible - two people talking at once)

Rep. Hershberger: Perhaps I am painting things so black, I'm really afraid (IA) said tonight (IA) fall asleep.

Jackman: I can honestly say that every member of, here present, that I've been going over these things. That I think, I hope the question - that answers are there. Some of the answers have become more clear to me as I read through the agreement. I'm not saying that there perhaps aren't some answers to these questions but at this point in my study of the thing I think that these are difficult issues that have to...

Sen. Poland: Senator Rader.

Sen. Rader: Mr. Jackman, in your mulling through this ignorance, in your own mind, do you think that we can do much be, let's say this (IA) committee report, couple of bills?

Jackman: It would be difficult in my mind because so many of the terms of the agreement are, even though executory, the (IA) discretion is pretty well laid out within the... As to the excercise of some of the State discretion, that would be true, but a major area of concern is Secretarial discretion and the discretion of Cook Inlet region and clearly we can't bind them.

Sen. Rader: At least to some extent we have a five party agreement here and our legislative intent would be the understanding of one party of what that agreement meant and I suppose that if the other parties didn't agree with that, you'd say there was a failure of the minds to work on an agreement even though we tentatively approved it. If the other parties didn't agree, somebody thought that our interpretation was not their interpretation. I don't know how you contract by statute, that's kind of a new concept, but we have a problem situation here. I'm wondering if we might not be able to, in effect, actually define some of the terms and the areas that concern us. I think their concerns are representative and very helpful. I think their testimony has added new dimensions to our hearings and our understanding of this problem. I'm just groping for some way in three weeks here with the good auspices of the Cook Inlet people and the Legislature, the Executive branch of this government, to try to sit down and define at least what two of the parties maybe agree upon. It's a matter of working out, I think, virtually the policy raised. I think that would be very helpful.

(tape seven)

Jackman: ...kind of disturb me in a way because even though the native corporations have agreed to this, they may not be completely satisfied and I don't think they are completely satisfied, but they have agreed to it in good faith. And the State has agreed to it in good faith and I doubt that the State is completely satisfied with this swap either. It's all been in good faith. Congress has approved it. At some time along the line, someone is going to have to bite the bullet and settle it, which is what the Legislature is going to have to do in a matter of a month or six weeks, as Senator Rader mentioned. But I don't think that the problem is resolved and twenty years from now history is only going to tell us who got the best deal out of this. This is just about the size of it as I see it. I don't see how we can tell who's going to get the best deal. Whatever (IA) administrate, I'm sure. But I'm just at a loss at how we're going to add any more to it in two or three weeks. After all, we must have put (IA) off. Whether it's good or bad. History will tell us. (IA)

Sen. Poland: Representative Anderson.

Rep. Anderson: Senator Poland, Mr. Jackman and I (IA) listened to the testimony of Mr. Huhndorf, I think you expressed his concern. I think you heard that, didn't you, that he had the very same concerns that you do, that there is no structure, no vehicle yet by the State by which an exchange of this nature can occur. And I heard it very clearly in my discussion with their attorney, I heard this very clearly. It's not a new thing, that this thing, at least to my attention anyway, it has been addressed by the Cook Inlet people. I think it's a meaningful concern and certainly concerns me also. But what is the answer, you know, in the time frame, how can you address adequately, I don't know.

Jackman: I think that the very fact that we're here is evidence of a real

milestone. Land trades like this couldn't even be thought about before Section 22-F had been passed, before we really looked at the problem we're facing with the Settlement Act. I couldn't be more supportive of the needs for these kinds of trades and that's why I think some legislative reform, some procedure setting how we're going to go about it, what the periods of review will be. And I'm not so sure that in the future you can expect a Legislature to negotiate this thing. I mean I think this all may come back to you in an administrative manner but the guidelines can be set down, the rules of the road. So I really believe and this is what the Commissioner sent me over to say, they feel very strongly that whatever happens in the context of this exchange, these kinds of exchanges are absolutely essential.

Sen. Poland: Representative Huntington.

Rep. Huntington: Yes, I'm looking at it, I've got no education, I (IA) I don't see any problem with it myself. If the State of Alaska can't handle it's own affairs (IA) so far. And I don't think that the trading off of this land is going to hurt the State of Alaska one bit. I think it's better for (IA) hands and see what they can do and come up with some solutions to the problem. I think the State of Alaska has got a lot to learn from the people that have lived here a long time. You get all the fine education and stuff - you start fooling around with problems, you start fooling around with lawyers, you don't know which one is right. (IA)

(inaudible)

Sen. Poland: Are there any further questions for Mr. Jackman? Thank you and I hope, David, you will be able to attend the hearing in Juneau on Wednesday. There will be many other legislators there that were unable to attend today.

Jackman: Perhaps I could call you later on that but there will be some problems. We have a series of meetings scheduled with Representatives from the House and Senate Interior Committee. But I may be able to arrange it, I just can't make a committment right now.

Sen. Poland: Thank you very much.

: Let me ask Mr. Jackman. Mr. Jackman, how much time could you devote to this in the next two or three weeks with perhaps staff and this committee and others in trying to go through some of these things you're talking about? (IA)

Jackman: I simply don't have the time in the next two or three weeks, Senator. I'm not trying to be unhelpful. I'll try to spend as much time as I can, but I don't see how I can make a large time slot.

: (IA) telephone.

Jackman: I suppose so.

Sen. Poland: We have time for one more witness and then we're going to take a break for dinner. We will resume at seven o'clock and continue on until 9:00 this evening. Those that have not been heard tonight, we're attempting to make

arrangements and we will make some kind of arrangements but we're attempting to get this room again tomorrow morning.

: I haven't approached this in the budget yet but we should be able to get this room.

Sen. Poland: We should be able to, Representative Brown. The next person we have here is Sam McDowell of the Alaska Fisheries Resources and I just welcome you.

McDowell: Senator Poland, members of the committee and ladies and gentlemen. My name is Sam McDowell. I'm wearing two hats also. Tonight I'm wearing the hat of Chairman of the environmental section of our league. We want to go on record that we do feel that the State of Alaska and the people who represent our interests have worked very diligently and we do support this trade, however, with some reservations. We feel that there're some points that should be touched on that have not to my knowledge been touched on. In this trade area there is considerable private land holdings. We feel that these people that do have these land holdings should not be financially hurt due to this trade. Therefore, we feel that the State of Alaska should make some provisions to insure that they do have access to their private property. We are a part of and, I'm happy to say, the State of Alaska has gone on record with a letter to us, that they also endorse many easements along all streams, all lakes and along coastlines in the State of Alaska. We questioned the State of accepting as a standard criteria the recent decision of Secretary of Interior, Kleppe. As I'm sure that most of you are aware, this decision is in litigation. We would be very disappointed if the State puts themselves in the position where they also have to be incorporated into this litigation. I understand that this criteria that's being worked out in this trade will possibly and most likely be used in future trades, for various other lands that various native regional corporations own and the State should decide to bargain. For this reason, we feel that it's extremely important that this matter be addressed and, hopefully, taken care of so that all Alaskans that are involved in this are protected. Thank you.

Sen. Poland: Representative Rhode.

Rep. Rhode: Mr. McDowell, in my understanding of your statement, you feel that the lease holder within any of this area that the State owns and is going to trade off should be protected?

Mc.Dowell: We feel this land that is being traded has been used by especially a lot of Alaskans for many, many years. Lots of them get in their float planes, fly over there. The land was put out many years ago as captain flags. They purchased this land, they have built their summer homes and they rely upon this as their recreational retreat. Now it's possible, if these easements along these lakes or along these streams are not granted for, this title to this land will fall to the regional corporations. Therefore, their investments, for all practical purposes, would be lost. And this is something that's very, very serious. Now, we do, like I said before, want this matter in the record. We feel the Cook Inlet Native Corporation has acted in good faith, we feel the State has. Now, we will endorse this trade with these reservations. We feel that the State of Alaska and especially our League has a responsibility. We are dedicated to the protection of the woods, waters, and wildlife and fish of

this State. And we ask that you pursue this to try to make Alaska a better place to live. And we feel it would be a horrible mistake to take and make a practice to go in and trade off land that people have a substantial investment because we all came to Alaska, I would say almost 100% of us, to enjoy Alaska. And I think it would be an absolute disaster for the people who are sitting in this room at this negotiating table and make an error in their judgement whereby many Alaskans could get hurt.

Sen. Poland: Representative Brown.

Rep. Brown: I was just saying, the reason I asked that question, we have a problem in the Kachemak Bay area and you wouldn't mind if I quote you on the protection of the resources would you?

McDowell: No sir.

: I suppose this is a question for whoever wants to answer it. (IA) staff attorney Berry or someone else, I'm sorry, Director of Legal Services (IA) be more (IA). What does happen? I know that when the State has land in, which is private in holdings, it has a legal obligation to try (IA) egress. What happens when (IA) having trade or sell us all of that land to a private entity? Does that private entity still have some of those same obligations or not? The question is (IA) occurred to me, it never occurred to me before. (IA)

: With respect to land involved here (IA) one of our federal land. Those lands from the Federal Government to Cook Inlet (IA) will come with the same restrictions on them that all the land under the Native Claim Act. (IA) They will have to have seventeen feet either put on - same process (IA) I wonder (IA) that is some State's land (IA) Cook Inlet. These lands will first go to the Secretary of the Interior, to the Federal Government. And he will then take those lands and (IA) same process as all the rest of these lands already been (IA) Will put on (IA)

: (IA) in the Act?

: procedure in the Act. . .

: Because I know (IA) they're already State land (IA)

: Yes. They will be put on. In addition, the greviance in the Legislature (IA) that on lands the State does transfer (IA) those lands, the State will retain (IA) and all dedicated or (IA) highways or otherwise. So (IA) but that where the State has (IA) that he was going to require (IA) So the State (IA)

: I wonder what Mr. Huhndorf and Mr. Price have to say about this?

Reeves: I'm Jim Reeves, attorney (IA). There's one further layer of protection to (IA) again one which applies to protect all the land (IA) to the Federal Government in the regional (IA). That (IA) Section 14-B (IA) which protects all (IA) Certainly 14-G (IA) protect all (IA). So that I think, you know, a number of instances in which one would (IA) context would be very few. I hate to say this but if I had (IA) I would hate to rely on my access to (IA) on the

basis of how somebody is going to interpret that phrase. (IA) one of the biggest question marks of the whole Act.

: I'm sorry, I'm sorry. Your (IA) have taken the position that every State grant under State law to the third party creates (IA). And the Bureau of Land Management's people are specifically identifying everyone in the entire involved (IA) setting before in detail and (IA). Originally, you're right, that was very complex (IA)

: I question that but anyway I wonder what the people from Cook Inlet have to say on the question?

: Well, I think personally (IA) testify (IA) So whatever the body is (IA)

: I don't really know if anybody answered my question but I'll just try to answer your question. But I also (IA) call for witnesses. But of course you were talking about two different things. One was the question (IA). But the other question was, you went ahead and said you assumed that the way in which this land trade is being carried out is, or will be in many respects, to be the precedent for land trades in the future and I sure don't think that's true. That's the whole point, I think, of the Bill that's sitting in the Senate. Some of the reasons for the disagreements that you heard here earlier and some of the suggestions the Legislation. So I hope very much that it's not a precedent. I don't think there's anything wrong in saying that the way in which Cook Inlet proceeded but I have some question in my mind about the other two parties. That, of course, is not something that we have to decide in the next two or three weeks. That's legislation that would affect future negotiations. Hopefully, we won't feel under the gun and we can push that through with the proper amounts of Committee deliberation. I'm sure that that's what's intended. I don't think that it's a precedent for the way in which land trades...(IA) native groups or any kind of disposal of large amounts of natural resources that the Administration has in the future. At least what I was (IA) legislation is something - not just addressed to land trades involving native lands but ways of properly and necessarily restricting the Executive in the ways in which he's talking about proposals and natural resources in the State of Alaska (IA)

McDowell: I believe the wording in this easement is frequent and submit (IA) use. Now again I question you. I have friends that have cabins over there that walk two and a half, three miles across country to go to their cabin. Now I have heard provisions not made (IA) that there are many easements along the lakes and along the streams. Suppose you Legislators go ahead and endorse this, and we are endorsing this, like I say, with exceptions and what happens if this thing goes to court and all of a sudden it's decided that perhaps the natives of this State do have a right to this. Will this affect this trade? Now definitely it's going to affect the people in the (IA) and there's going to be some very irate people when they find out all of a sudden, when all the smoke clears, that they no longer have access to their private holdings. Now if you walk down -as I interpret this and I've been very close to it - if there is no access on these streams and if you should even be in a boat and step out of that boat -you are trespassing. I don't think the State of Alaska should take and pass any laws that are against or for any segment of the population. This is

what I'm asking. I'm asking you to give very serious consideration when you do make this trade, that you do look out for all Alaskans and I don't think that's an unfair request. Thank you.

Sen. Poland: Thank you Mr. McDowell. We will take our dinner break now.

Sen. Poland: We're going to resume. I don't care whether people (..) or not. Helen Neinhauser?

(many people talking at once)

Neinhauser: My name is Helen Neinhauser and I am testifying for myself this evening. I am a resident of Anchorage and have been a resident of Alaska for nearly seventeen years. I support the land trade and urge the Legislature to approve it. My reason for supporting the land trade is that it just plain makes sense. It's effect will be to place the bulk of the land in private hands and to retain land which ought not to be developed in public ownership. This is rational land ownership and is in the best interest of all the residents of the State. If land is suitable for development, whether it be coal mining or residential use, it ought to be in private hands. The only question is, which private hands. In my opinion, it is fair that Cook Inlet Region be the private party which develops that portion of Alaska's land. The lands originally available to them under NCSA were not fair to Cook Inlet. If the land trade does not go through, I fear that the result will be unsatisfactory to Anchorage residents and detrimental to the State as a whole. It is particulary important to Anchorage residents that as a result of the trade, the Campbell Tract, Point Larenso, Point Campbell, and Goose Lake lands will be retained in public ownership for park and recreation purposes. Can we place a dollar value on what these park lands will mean to Anchorage residents in the future? Projections of Anchorage's future population are frightening. As our population grows, the present de facto open spaces will be filled in. What price can we set on the peace of mind and the physical excercise derived from a two hour ski trip in a nearby park, all the time a busy urban resident may have. As one of the originors of the Talkeetna Mountain State park proposal, now also before you, I am particulary happy that as a result of the land trade, the State will ob ain ownership of key sections of the proposals which were formally eligible for native selection. These lands are valuable recreation lands but totally unsuited for development. The capitol will almost surely go into this vicinity. Can we put a dollar value on what that park will mean to future residents of the capitol? Or what it will mean to Anchorage and Matanuska Valley residents where local parks and the Chugach are overcrowded and can't afford the time to get to Talkeetna. I visited Lake Clark last summer and loved it. One of the loveliest spots I've seen in a State full of beauty. Lake Kontrashibuna is also very special and has fantastic fishing. Both belong in a national park where their use will be available to all for generations to come. Uncontrolled private development along the shores of Lake Clark would be a tragedy. The natives relinquished their claims to this area as a part of the trade leaving it in federal ownership thereby opening the way for a park. It will be used and enjoyed by many Alaskans. What dollar value can be placed on this? Private ownership to the Moose Range will be held to a lower level than would be the case without the trade so I cannot object. The selections in the Iliamna area are sensible inasmuch as they give the State D-2 lands that would not otherwise be available to them. They will doubtlessly

select remaining federal lands in the region giving them basic cont of the area, important to the fisheries resource and more compatible with the native ownership in the area than would be federal ownership. There has been a lot of talk about the dollar value of what the State will give up. Those who talk about this are not looking at the whole picture. They are not talking about what the State will gain. And they certainly are not looking at what the people of the State will gain by continued public ownership by the Federal Government of such areas as Lake Clark and the Moose Range. Besides the intangible values, there are others. What about the taxes that will eventually accrue to the State or political subdivisions from private property ownership of developable land. What about taxes on profits of this (IA) taking place on these lands. What about the values to the Iliamna fisheries, of State control of the lands in the area? What about the reduced cost to the State that will occur because of the development that will take place on native lands will now be closer to population centers and therefore less expensive to service? One gentlemen said earlier that we some recreational lands but we need to worry about food and housing first. It seems to me that he was forgetting that there are other coal deposits as well as oil and gas fields that will remain in State ownership. There isn't another Campbell tract or Lake Clark. It is crucial that the Legislature look at the whole picture. As you do, ask yourselves some questions. What is it we value about living in Alaska? What is the best way to achieve a balance between necessary private development of Alaska's mineral resources and public protection of Alaska's fantastic scenic resources? What must we do in the face of increasing development to keep Alaska a special place to live?

Sen. Poland: Thank you Helen. There's one item I would like to have cleared up. It's my understanding that the villages have regained their lands along the lake.

Neinhauser: It's my understanding that the lake ownership where Cook Inlet, in the more mountainous end of the lake - that will go to federal... you're talking about Lake Clark? But (IA) will retain it's ownership.

Sen. Poland: Perhaps Mr. Huhndorf could clear up that point. Do the villages retain the land along the lake?

Huhndorf: No. The villages have agreed under this exchange to (IA)

Sen. Poland: Thank you.

Neinhauser: Helen Heinhauser.

Sen. Poland: Yes. (IA) Were there any questions from the committee? If not, thank you very much.

Neinhauser: Thank you.

Sen. Poland: Virginia dal Piaz?

(inaudible)

: There won't be any snow machines going by.

dal Piaz: I'm glad (IA)

: ... the trade.

dal Piaz: private joke. That Talkeetna Mountain hearing this morning (IA) 500 is going right by. (IA) I think Neils arranged it.

dal Piaz: My name is Virginia dal Piaz and I'm President of the Upper Cook Inlet Chapter of the Alaska Conservation Society. We've not previously had the public opportunity to announce our position on the Cook Inlet land trade and we appreciate the chance to tell the Legislature that we do favor the trade. We support totally the concept of trading lands to facilitate rational ownership patterns and management. Federal, State, native and other land owners have different goals as owners and managers of Alaska's land. It is therefore reasonable and laudible to negotiate trades which, on the balance, benefit all parties concerned. We are thankful the State Administration perceived the need for a land trade with Cook Inlet Region and devoted so much energy to this settlement. We're pleased that Congress sought this Act quickly and supported the trade, thus placing their trust in Alaska negotiators familiar with the Cook Inlet land situation. We're equally appreciative that members of the Legislature have taken an interest in the trade. It gives us faith in the checks and balances of government. However, we feel that the energies of the detractors of the Cook Inlet trade are misplaced. Early October, '75 the State Administration first announced the conditions of the trade. The time allowed for public input appeared ludicrously short. However, since then, the public has had ample opportunity to consider the proposal and the trade has been altered as the result of public input. The land trade approved by Congress is favorable to State interests and urge the Legislature to lend its support to the final agreement. Now, I'll briefly discuss a few specifics. It's our feeling that the Kenai Moose Range should be held substantially intact. To this extent, the pieces of the Moose Range were traded to the Cook Inlet natives, those pieces should be located on the edge of the range away from prime wildlife habitat. Further we hope that this is the last time the Moose Range's borders are tampered with thus reducing the size of the range. We will urge the Federal Government to protect the Canus system from development and to designate eligible parks of the range as wilderness. We find the Cook Inlet land trade in keeping with our interest in the Kenai Moose Range although we regret that it was necessary for the Federal Government to trade away any portion of the range. This is one of the most heavily used outdoor recreation areas in the State. The townships the State will pick up in the Talkeetna Mts. are critical additions to the proposed Talkeetna Mt. State Park. The Upper Cook Inlet Chapter of the ACS is on record in strong support of this park proposal. We're happy that Campbell Airstrip, Point Woronzof, Point Campbell and Goose Lake are all being retained in public ownership. We're paticularly pleased that Congressional action (IA) conveyance of the Campbell Airstrip tract to a plan for a (IA) Bi-centennial park. We will be watching implementation of the selection pool that Mr. Jackman alluded to earlier which is 1C-2A, page 39-40 of the agreement document. Important potential park and open space acerage on the Anchorage hillside may be declared federal surplus property and we intend to keep an eye on any conveyance of such critical acerage from public to private ownership. I'll be adding when I send in my testimony a little more in depth on that particular subject. We're hopeful that the land trade will ultimately lead to State management of Iliamna watershed, a region of

extreme value for fish habitat. Moreover, we support federal ownership of the lands around Lake Clark and areas serving as protection for the valuable recreation land. It appears that by reducing native land ownership in the Lake Clark, Lake Iliamna region, the State and Federal governments are moving closer to a workable management plan for that portion of the State. Finally a few comments on the Beluga coal fields. Since the State has retained the land of highest value for coal production, it, nevertheless, has given up many acres of potentially energy rich resource land. It's time the State looked beyond how many dollars worth of nonrenewable resources we control. It's obvious that the State has to give something of value in order to receive valuable renewable resource land including the possibility of gaining control of the extremely valuable fish and wildlife habitat around Iliamna. What the State is giving up in revenue might very well accrue to tax periods of one generation. What it is gaining is control of renewable resources that will benefit many generations of State citizens. I think that the Beluga fields are a reasonable loss for what the State will gain including retention of revenue from the Moose Range oil field. In conclusion, the Upper Cook Inlet Chapter of the Alskan Conservation Society strongly supports the Cook Inlet land trade. We urge the Legislature to do the same. We also wish to thank the committee for holding these hearings and allowing the public to express their views.

Sen. Poland: Thank you. Are there any questions from the committee?

dal Piaz: I also will ask the committee's advise on how to handle the following: the Alaska representative from the Sierra Club had to catch a plane and left his testimony with me. There are quite a few copies here. I could just give them to you or I could read them.

Sen. Poland: You can just hand them out to us and we'll put them (IA). If there's time at the end, you might want to read it but otherwise, I'd like to go ahead and hear the people that are here. Senator Rader, did you have a question?

Sen. Rader: One brief question. What is your position on the acquisition of Bristol Bay lands by the State of Alaska (IA) aspects of that land acquisition? Do you feel that's of particular value for conservation purposes?

dal Piaz: I would have to - I must admit I'm not really familiar with that area. I will find out an answer for our group.

(inaudible)

dal Piaz: I can just summarize briefly the Sierra Club statement is in support of this land trade (IA)

Sen. Poland: Mr. Homer Burrell?

Burrell: Madam Chairman, members of the Senate and House Resources Committees, Legislators, staff, public. Speaking for myself. We've got a real problem here tonight. We've really bitten the bullet. The Administration has given (IA) I'm not here to recommend you approve it or recommend you disapprove it. I'm here to recommend you find out something before you take any action. You have not got any adequate information. I don't think you have correct legal information, for instance AS 38-95.060 limits you to a one township exchange, limits you to

equal value and makes no reference to minerals. If you don't change the entire law, either appeal that one or enact a new one or amend that one, or do something, I think you're going to be very susceptible to a law suit over this action, over the action proposed by the Administration should... If you want to do that, fine. You should do it. But the main thing that bothers me about this is a lack of information. You've heard testimony from experts and I am not an expert. You've heard experts testify tonight on the value of the resources that would be exchanged on both sides. What hasn't been dealt with is, what are we talking about when we say value. We're talking about economic value, talking about recreational value, aesthetic values, what are we talking about? There's been no definition of those terms. That is where you are somewhat in the position of a jury in the condemnation case. When I say that the land the Highway Department took worth ten thousand dollars and the Highway Department says it's worth ten dollars, you know the jury has to reach the verdict there as to what that land is worth. What did I deprived of and that's your unenviable position. And I do not envy you for that. There's no definition of value. I don't think the straight economic value is right, I don't think it can be entirely disregarded. I don't know what the coal in Beluga is worth or the coal which apparently's been overlooked to a large extent. And the coal in the Kenai Peninsula and the other lands that are purported to be part of this exchange. I have no idea what they're worth. I have no idea how to find out. If you'll tell me what the Arabs are going to do with oil prices or what the Federal Government is going to do with oil prices, then I could tell you what coal might be worth. But I don't know the answers to that. I deplore the Administration's, despite their protestations to the contrary, keeping the details of this thing confidential for so long. Now the Legislature has got something like three weeks or four weeks to try to make their own independent determination. You've already heard the conflicts to the Department of Natural Resources itself and other qualified mining engineers and geologist over the value of this. It is not clear cut. If you buy the Dept. of Natural Resources position of what this is, you are commiting an error which is going to approach Teapot Dome someday. And I don't think the Legislature wants to. The Administration may want to. Now, I know, as you all do, that despite some baloney that came out of Juneau and other places recently, the revenues from the subsurface resources and timber resources, 70% of them are spread around all regional corporations. You don't even have to be a member of the corporations to share them. Likewise, if I had a lodge on a lake, I would not want a profit making corporation own the land in the area because I'd have competition. Consider that. The history of this transaction from a secrecy standpoint has been sickening. Two things have been done wrong. Because the State law requires under criminal penalty that records be made available to the public, simply a private file is kept so that nobody, including the Legislature, had the opportunity to find out what is going on. There's another Legislative Act which you have - I'm not going to give you the citations here, I'm sure the attorney knows about all of this. It says that all meetings of agencies shall be public with certain specified exceptions which these type of meetings didn't fall under. I happen to think a meeting with the Div. of Lands, with Cook Inlet Region and the U.S. Dept. of Interior is an agency meeting. I came within one fourth of an inch of signing a criminal complaint against the State's negotiator on this. He was perfectly willing to file against somebody else who got trapped by conflicting orders of various State agencies. I suggest you take a hard look at this. You have not been given the facts. Despite what they say, this has been the most secret game played right up to the last minute until they decided

to have a deal and wanted (IA) Therefore, you're at a terrible handicap right now trying to get the facts. What you should get is some independent appraisals of the values. And I don't mean from somebody with an ax to grind on either side. I mean an independent appraisal. And I don't know whether how an independent appraisor could consider the recreational value and the subsurface values at the same time. That's beyond me. But it should be considered if you don't want to go down as a Teapot Dome legislation. And if you could get that information before you move, I think you'd be a lot better off and you could defend your position. Thank you.

Sen. Poland: Representative Hershberger?

Rep. Hershberger: Mr. Burrell, maybe you could tell us, are the indians trying to stop us or are we trying to shoot them? If this is collusion, which are the bad guys? Mr. Huhndorf? Who is it?

Burrell: I don't know.

Rep. Hershberger: Who's playing the game to what advantage?

Burrell: I would say this...

Rep. Hershberger: I mean, I know why your remarks are stated as they are. We all recommend political values and all that, but you tell us what's wrong here now?

Burrell: Alright, I'd be happy to. Madam Chairman and strike the (IA) remarks. Obviously both sides, I think, think they have something to gain or they wouldn't make the deal. Actually, all three sides think they're either gaining or at least not losing or they wouldn't make the deal. That's a typically negotiated transaction. Right? Okay, I'm speaking, not asking. I beg your pardon. Everybody thinks they're either going to gain or at least not going to lose or they wouldn't enter into the transaction. Okay. Now, the only thing you can assume from that is that they have different motives, different objectives. And I suggest, the State objectives are different from those of the Cook Inlet region and different from the United States Department of Interior. Everbody has different objectives and they're all happy with them apparently. When I say the State, I mean the State Administration.

Rep. Hershberger: It's pretty obvious that the State has done something with the region natives that they don't know about so would you go to the natives and tell them to be on their guard or are you telling us to tell them to be on their guard?

Burrell: Madam Chairman, I am not saying that the State is doing some thing the natives do not know about. I said the State had different objectives than the natives have and apparently both groups in this case, let's leave the Dept. of Interior and the Federal Government out of it. In each case, both groups were satisfied with the objectives and thought their objectives were attained. Like I might want your red card and you might want my blue card and to both be happy, we make a trade because you like red and I like blue or whatever.

Rep. Hershberger: (IA) I'm confused then. If both parties are in agreement,

what's this (IA)? You said somebody's trying to take advantage of someone else so presumably...

Burrell: Madam Chairman, my remarks were the fact that I think you ought to get an appraisal. That's all. You can't buy something that's just been fed to you, spoon fed. You're going to have to live with what you do. If you, quote "give away" - and I don't mean it that way, but if you give away the Beluga coal reserves and the Kenai Peninsula coal reserves or various park land, that may or may not be right. I'm not saying it's wrong, I'm saying you've got to know. And I don't think you know. There's obviously controversy within the Department of Natural Resources itself, you've heard the controversy over parks and values, or differing interpretations of the values from various people who've testified. And I don't necessarily say either one is right or wrong, I'm saying you ought to find out. I guess that's why we're all here.

Sen. Poland: Representative Rhode.

Rep. Rhode: Where would one go to find out what the recreational value of these lakes are? Just where would we go to find this out and tie this in to the value of the coal field?

Burrell: Madam Chairman, that's the, in reference to Rep. (IA), that is a value judgement and that is why I made my previous remarks, that you're sitting here as a jury. I don't know what a recreational site or a recreational use of it were...

Rep. Rhode: Who would know that we could go to?

Burrell: I think you have to get the testimony as to the economic value of both. Many of you have to throw in your own evaluation of its recreational or renewable resource value and determine what you are gaining and make your own evaluation.

: May I make one remark here.

Sen. Poland: Senator ?

: If you would tell who (IA). I don't know where you go to get an evaluation until after say twenty years from now, we find out who gained and who didn't.

Burrell: Madam Chairman, I'd hate to wait twenty years to found that out. I'd like to find out before. But I'm for (IA) find out.

: Madam Chairman, I have to agree completely. I don't know where to go to find out either. But what I would say is this, what is the State losing from a control standpoint in giving up ownership of the Lake Clark area. I don't know. I haven't seen anything in writing that explains to me what the State is losing. As far as I know, we have not lost our management control over Fish & Game although we might lose it over the habitat for the fish and game. (IA) I appreciate that. All I'm suggesting is that we just don't have enough facts on what is the State giving up and what is the State gaining in both areas, say Lake Clark for instance, and Beluga. I don't know.

Sen. Poland: Representative Brown.

Rep. Brown: (IA) Rep. Cotten is (IA) is not mentioning anything that (IA) already passed last year.

: (IA) designated smoking area.

Rep. Brown : Designated smoking area. Just one comment. You talked about whether or not negotiations were carried on privately and the way in which things were done and this doesn't directly relate to that but (IA) you just might be interested in the fact that Rep. Cotten and I were sitting in the House Judiciary Committee (IA)

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: (IA)

Sen. Poland: We said if we couldn't finish that there would be (IA) we didn't want to lock ourselves in because we would certainly like to finish, in fact we figured if we were almost through by 9:00 we would ask the people to stay (IA) because some of our legislators are unable to get reservations on the plane tomorrow and they will have to leave on the morning plane. Bob Rude.

Rude: Madam Chairman and Legislators, my name is Bob Rude, I am a stockbroker in the Cook Inlet region and I am the First Vice-President of the Cook Inlet region, President and General Manager of the Cook Inlet General Property Corporation and am a member of the Cook Inlet Region Land Negotiation Committee. I have been a resident of Anchorage for 35 years and I am here today to testify in favor of the proposed land trade. I believe the land trade is something that is beneficial to all three parties. The proposed land trade provides for the settlement of certain claims and in doing so it consolidates ownership among the United States Government, the Cook Inlet Region and the State of Alaska within the Cook Inlet area of Alaska. The proposed land trade facilitates land management and creates land ownership patterns which encourage settlement and development in appropriate area. The proposed land trade will enhance the State of Alaska's land holdings by 48.8 to 53 additional townships of land. The proposed land trade makes available Point Campbell, Point Woronzof, and Campbell Field to the State of Alaska. The land trade protects wildlife and fishing resources of the State of Alaska. The land trade provides areas for future recreation of the Anchorage residents and the residents of the State. As a member of the Cook Inlet Region's Land Negotiating Committee, I have been involved in with Cook Inlet Region's land problems for three years. In 1972 and 1973, I was on the first land negotiation committee of Cook Inlet Region. Our committee met many times with the Federal Government. We made many trips to Washington, D. C. and spent thousands of dollars only to see negotiations fall apart. A full year went by before negotiations were resumed and it was at this time that the State of Alaska, the Federal Government and the Cook Inlet Region began to negotiate. These negotiations resulted in our present land trade that is now before you. Throughout our negotiations with the State of Alaska and the Federal Government, Cook Inlet Region has made many concessions. We gave up our rights to Campbell Field, Goose Lake Point, Woronsoff and Point Campbell, to appease the residents of Anchorage. We gave up our rights to the Swanson oil fields to appease the State of Alaska. We

dropped our claims to National Forest lands and reduced our claims to Moose range land to appease the Federal Government. We saw the State of Alaska and the Federal Government transfer 17 townships of land during the land freeze that could have come to us. We relinquised the right offered us on Beluga Mental Health lands. This area was supposed to contain 80 percent of the estimated coal resources first offered to us. We agreed to accept approximately (?) townships out of our region so that the State and Federal Government could retain more land within the Cook Inlet Gulf. In doing this, we will again have to spend millions of dollars to study the land in five other regions, so that we can select the land most suitable for our corporation. I have attended several hearings concerning our land trade and have heard adverse testimony by many non-natives, the testimony that I have heard makes me sad. Some individuals feel the only lands we are entitled to are mountains and glaciers and that any land with any value should be kept from us Natives. Are the people aware that the Natives lived on and occupied all of the lowland, low-lying land in this area? Are you aware of the fact that we agreed to a land claims bill that specified that we could receive land of similar character as the lands we gave up in the Act? Are the people aware of the fact that if this trade is not approve, there will be no land planning in this area? Are the people aware that if this trade does not materialize, that Cook Inlet Region will progess in its court case and will file and fight for every piece of land possible in this area? In conclusion, I feel that Cook Inlet Region has paid its price. The Cook Inlet Region (IA) and the lands listed within CL 94-204, I believe it will greatly benefit the State of Alaska and the community of Anchorage. It is my belief that Cook Inlet Region will move to develop the land in the Beluga area and this development will bring additional income in the form of taxes to the State of Alaska. Millions of dollars will be made available to the Anchorage community and many jobs will become available. I believe it would be a very embarrassing situation if the State Legislature fails to approve this land trade. This land trade has been supported by the Federal Government, the State Administration, State Congressional Delegation, and conservation groups in the Cook Inlet Region. CL 94-204 was overwhelmingly passed by the Congress of the United States. For the State Legislature to (IA) the trade now would show the Nation and the world that this State does not have the concern of the rights of its first citizens. I hope you will seriously consider our views and I hope you will support the proposed land trade when it comes up for a vote in Juneau. Thank you.

Sen. Poland: Thank you Mr. Rude. Representative Cotton?

Rep. Cotton: Mr. Rude, you mentioned that you had given up your claim to several areas of land around Anchorage here that were considered by some to be uh-anyway Anchorage wanted them and so you gave them up to appease the Anchorage area. Are there any other lands left in that same category that were either asked for or that can be considered similar lands that you haven't given up?

Rude: No, what I was referring in this statement --like I mentioned I was on the first negotiating committee. Federal Government came into Anchorage and with a team of negotiators at that time these were the areas that they brought up and said that the changes there and the final offer was something like 23 townships of land that we would give up our title on 48 townships.

Rep. Cotton: (IA) Campbell Point, Campbell Air Strip that you mentioned you gave up your claim to in order to appease Anchorage. Were these the onl" areas that Anchorage asked you to give up in order to appease them?

Rude: Yes, to my recollection.

Rep. Cotton: Well now, this is just Cook Inlet Region, that doesn't include any of the other corporation, isn't that correct? You don't have anything to do with any other village corporation within that region?

Rude: No, I don't.

Cotton: Thank you.

Sen. Poland: Representative Brown.

Rep. Brown: The tone of your testimony concerns me. I hope you understand that there is no great negative feeling for the Cook Inlet Region Corporation, not that I know of. It bothers me very much that you seem to think the people would threater or appear to threaten to lower the boom on your efforts. I want you to feel that your birthright as a people. That's not what is happening at all. My concern and the concern of many of the others of the group is the whole process. There is something wrong with the process. Probably (IA) hindsight and some of us have only been in the Legislature a year or so and some of us a long time, we see these (IA) differently but you have heard no doubt, that the dispute (IA) the representative administration (IA) legislation involved in a very important decision (IA) and I think it is that process that really (IA) as opposed to the particular issue in question or merits of the particular Act (IA) it was represented here that I and other members of the council have (IA) if that is ture I certainly don't remember (IA) certainly it was not presented in a way (IA) we found later the (IA) the State of Alaska that we found out that we would likely be coming back to Juneau and it was at the beginning of the session that we found out this had all taken place (IA) and it occurred with a shouting of the press and were drawn into the action (IA) through the process of the issue (IA) legislation make sure that the administration's feeling on the disposal of a, or trading large lots of land or resources in the State of Alaska (IA) I don't know (IA) the distribution if possible. Maybe this Governor or some other Governor (IA) a different feeling (IA) we could have some serious problems. All of those concerns are not directed at you or at the Cook Inlet Region (IA) you know we come to a legislative council meeting and we get work, formally or informally, on and off the record that vital decisions (IA) without any input from the Legislature at all. (IA) I don't think that it was anything directed in a negative fashion. That's all I have, thank you.

Sen. Poland: Are there any other questions of Mr. Rude? Thank you very much, Mr. Rude. Patrick Pourchot, of Knik, Knoers & Kyahers, Inc.

Jeff Knaebel: Senator Poland and members, I am Jeff Knaebel, a resident of Fairbanks, I am a member of an engineering and geological consulting firm with head offices in Fairbanks, Anchorage, and Ketchikan, and which numbers among its clients, more than two dozen mining and construction companies to whom we have provided engineering and geologic service. Cook Inlet Region is among my firm's clients. I am not however, testifying on behalf of any of my clients nor on behalf of my firm, but as a citizen of Alaska, on my own behalf. First, I think it is important to bear in mind that the purpose of the proposed trade

is to complete in an orderly manner, the implementation of the Alaska Native Claims Settlement Act, which was an Act for the purpose of settling aboriginal land claims, that has behind it the full moral weight of the Congress of the United States, and also citizens of the United States. It is also important to remember that when you talk about the Native people of Alaska, it is not a "them and us" situation. These people are Alaskan citizens. They are the first citizens of this great land, they and we share a common bond of Alaskan citizenship. They are us, in other words. When we propose to deed land to the Native ownership, we are giving ourselves land. I doubt that there are many Alaskans who would not rather have us own our own land than the Federal Government own our land. And this trade offers a net gain (IA) ownership and a net gain of State and title land. State government has seen fit to provide to private ownership only 3/10 of 1 percent of Alaska's land. The citizens of this State desparately need land. Land to live on, and to earn a livelihood on. Private productive land ownership is a corner stone of individual liberty and free enterprise, two things which are sadly rapidly slipping from our grasp. The Alaska Native Claims Settlement Act, in my opinion, is the single Act in support of individual liberties in decades. The land trade in force today goes a long ways toward meeting the needs of the citizens of this State. Aside from the direct land benefits to Alaska citizens I will enumerate shortly, there is a moral issue to be decided here. In the past four years I have witnessed treatment of Cook Inlet Region at the hands of our Federal Government that is so shabby that it would make Americans hang their heads in shame. It grieves me that a law enacted by the people of the United States assembled in Congress can be so blatantly abused by the Federal Government charged with the implementation of the law of the land. I have seen glaciers and mountains withdrawn from the Cook Inlet Region, and have seen good faith on and an attempt in taking corrective action met with hypocrisy, deceit and broken promises. The State also has a moral obligation to redress the wrong done to these, its first citizens, when the State entered a secretly negotiated contract with the Federal Government in September 1972, which took away lands in the Lake Tulatin area which should properly have been made available for Cook Inlet selection. Incidentially, the dedication of that contract is still pending and can be settled by the agreement before us today. I think it is time for these things to be put behind us. Since 1972, all attemps to have the Alaska Claims Settlement Act properly implemented for Cook Inlet Region have failed except for the proposed agreement before us today, and this agreement contains good faith compromises made by Cook Inlet in recognition of the interests of the State of Alaska, because of 1975 sympathy for Cook Inlet Region by the U. S. Congress resulted in committments that would have given Cook Inlet certain trade lands including Swamp River plus Campbell Air Strip, Point Uronsoff, Point Kanby and other areas that were in negotiation at the time. When the State of Alaska became actively interested, Cook Inlet agreed to discuss issues in good faith negotiations which ensued between the three parties for over eight months. From my own contact with people, it appears to me that most Alaskans knowledgable of the details feel that the agreement before us is in the best interests of all the parties. Except for objections centering on the Beluga coal issue and the method by which the agreement was negotiated. It is my opinion that many of the figures quoted in the newspapers on this Beluga matter are misleading. First, those figures are based on trends of mental health land in trading. Mental health land has subsequently been removed from the trade, thereby moving 75 percent of the reserves that are being argued about. Second, the figures quoted in the newspapers are based on reserves calculated to the depth of 2000 feet. It is unlikely that mining will progress to that depth in the forseeable future. Coal reserve figures are meaningful only if they are reserves that can be economically mined. It is needed by people

of the greater Anchorage area, and add to the local borough tax base. The State is reimbursed with other potential resource lands. The title cloud on all lands in the Cook Inlet region is removed. Cook Inlet withdraws blanket filings and draws its lawsuit. The State-Federal agreement of September 1972, remains intact. This agreement protects that area to selectable and selective State lands, a large portion of which could go to Cook Inlet should Cook Inlet win it's law suit. Cook Inlet has given up its right as you have heard other people say, on the majority of the Moose Range, Campbell Air Strip, Point Woronsoff, Point McKinsey, the Lake Tulatin land and 30 townships within the region of the lake park area and Talketna mountain area plus Cook Inlet has given up 46,000 acres of its total legal entitlement under the Alaska Native Claims Settlement Act. I think that Cook Inlet has conducted itself in an exemplary manner, that the Alaska Native Claims Settlement Act guaranteed a just settlement, that this particular trade before us, is just and as well brings a net increase in value to the State in the particular situation that we face. I ask you to analyze those portions of public law 94-204, which apply to Cook Inlet alone. Other issues in that law may be controversial but they do not apply to the Cook Inlet Land trade and should not be considered in judging the agreement before us today. It is time that this issue should be settled. It is time for the Government of our State and Nation to uphold the laws of this land as those governments expect the citizens to do. Thank you.

Sen. Poland: Do you have any questions of Mr. Knaebel?
I would like to make a statement here. Your remarks seem to place the burden on the State, and in that I think you are being as unfair as you accuse the State of being. I don't think there is anyone here that hasn't supported the Alaska Native Land Claims Settlement Act, nor do I sense in any of our members and there may be a few whose feelings I don't know, I can't speak for all 60 , that don't have the decent concurrence, but let's not lose site of the fact that the original agreement was with the Federal Government, and Cook Inlet and the other regions. I could not agreee with you more, that Cook Inlet was offered something that was completely unsatisfactory, on the other hand, the Federal Government also has an obligation to see that Cook Inlet receives its proper entitlement. I hate to see them give up 46,000 acres. I think they should get their full entitlement. but I think you're twisting things a little bit to say that the State is this involved.

Knaebel: It was not my intention to imput any blame to the State. I do think that there are moral issues involved there that the State, whether they like it or not, is placed in a position of making the final decision, and that the State, in my own opinion, did clearly do a wrong thing in that the previous administration did set down with the Federal Government and gave away Lake ? land to the Feds and to itself that properly under the standard of the Act, should have been withdrawn for Cook Inlet region, and had they been withdrawn for Cook Inlet region, there is a distinct chance that this whole thing might never have come to pass, because there might not have been a legal basis for Cook Inlet's complaint. To that extent, I feel that the past administration of the State is involved and to that extent I think there is a moral issue that relates directly to the State as well as the uninvited moral issue that has

significantly (IA)
like Federal reserves that have little chance of being mined in the forseeable future. Return to Cook Inlet, or loss to the State of Alaska is related not to the total reserves in the ground, but to the rate and time which they are mined. THe largest coal mine in the United States according to a state report, produced about 7 million tons per year. The question then becomes when will production start on the Caps ground which is the coal that Cook Inlet would now get in the agreement. The Chitna coal is closer to tidewater and has an estimated 1.6 billion tons of coal. This coal will in all probability, be mined first. At a production rate of 7 million tons per year, it will be 228 years before Chitna is mined out and it would be logical in terms of the Caps. The present value of the Caps ground is nearly zero. On the other hand, let's just suppose hypothetically the Cap was mined first. There is certainly value in lease rental and production royalties. The cap has about 50 million tons of coal, sufficient to operate a mine of seven million tons per year for 79 years. Present value of royalties calculated by State engineers are for a mine of 6 million tons a year and calculated between 3.7 and 6.5 million. A probable scenerio for the Cap might be that mining starts and progresses for 20 to 50 years. Since the Chitna is closer and both areas will be under lease to the same party on the assumption that both areas remain in State hands, the low cost coal in Chitna would be gone 50 years from now and the Cap would then be opened up. The present value of Caps then are lease payments through the years, plus royalties after 20 years. This totals up to a series of figures which, including the lease payments and royalties and the value of the coal itself brings the total present value of the Caps to about two million, seven hundred eighty seven thousand dollars ($2,787,000) rather than several billion dollars. In summary, regarding the Beluga, Cook Inlet has received 13.5 townships. This excludes 75 percent of the known coal. 1.6 billion tons of known coal remain to the State. Cook Inlet gets 570 million tons of known coal, 850 million tons of hypothetical coal. The State estimates royalties to Cook Inlet at 15 million dollars on the 570 millon tons of known coal in the Cap. Since however, Chitna would probably be mined first, the present value of the Caps, the value of future income discounting the present is 3 million for land. Therefore, what we have here is the State giving up very hypothetical future coal income of very uncertain value in exchange for high present value of land exemplified by Campbell Air Strip, Swanson River revenue and other Federal excess properties. In summary, the net effect of the whole trade agreement appears to be as follows. The State gets high valued Federal excess property near Anchorage that might otherwise go to Cook Inlet. The State oil revenues from Swanson River are protected for the State. Cook Inlet gets some resource land that would otherwise be locked up by the Federal Government and not used for the economic benefit of Alaska. Contrary to what has been said earlier, the out-of-regions selected do not cost the State. There is enough (IA) land and land available (IA) to more than meet the State's entitlement, and in addition to that, the effect of this Act and this trade is to increase the final total State title, over and above the Statehood Act by approximately 30 townships. It appears to me that the potential gain of 30 extra townships of State ownership has a good chance of exceeding the potential loss from the production of coal reserves of questionable value. Also, approximately 19.7 townships of State land are transferred to private ownership. These lands are

been dropped into the State's lap, but I surely did not mean to impune any tendancy on the part of the State or you folks to rule against Cook Inlet, per se, I simply wanted to bring out these points.

Sen. Poland: Did you help Cook Inlet select this particular range that they selected?

Knaebel: We advised them on technical matters relating to land and have helped them to decided the priority of the lands that were available up to this time for selection.

Sen. Poland: Are there any further questions of Mr. Knaebel?

Rep. Brown: Madam Chairman?

Sen. Poland: Brown.

Rep. Brown: I am interested in the computation that has been made in regard to the comparison of various coal lands and I am sure that other people here will be testifying and variously agreeing and disagreeing with what you have to say and because that is true and because the issue falls back to Juneau, and we'll be looking at those same figures again, I am wondering if it would be possible for you to have that portion of your remarks or that summary typed up and sent to the committee.

Knaebel: Yes sir. We can not only do that but we can show you the basis of how we arrived at that figure. I might point out that to the engineers here that probably the most common point of disagreement is going to be the assignment of a probability function as to whether or not a given unit of coal is going to be economically mineable by a certain point in time. We have taken the State's report and we think they are basically right and have taken a somewhat more conservative view point on what are true economic reserves that can be mined at a profit.

Brown: I am sure that those who agrree with you would like to have that material in support the argument and the disagreeing people would like to have it (IA) to try to shoot it down.

Sen. Poland: Thank you very much. Mr. Chuck Hawley.

Hawley: I am C. C. Hawley, the local mining geologist, I am president of the local chapter of the Alaska Mining Association.
We don't feel that we can take a negative position on this for two main reasons, one the complexity of the thing, and we have only just been able to get the facts and then we have conflict of interest too. For one thing, the mining companies are members of the Cook Inlet Native Association and members of the Alaska Mining Association and we have had difficulty in getting all the facts. It doesn't appear the proper course to advocate a position. I think we will,..... there are

several things that we need to talk about and some of them haven't been brought up at all. Several things. First thing would be the trade off in volume mineral values are not easily assessible, but they probably should not be an overriding factor. And there are two considerations that lead to that.
Blank tape.

Hagey: Are not appreciably different. The second point is that some of the land which the State now can select has been demonstrated by the efforts of Cook Inlet Region to be mineralized. This was done on their behalf by contract mineral companies and this land would formerly have been in D-2 status, this land that they thought they could select and they made the expenditures to go out and prospect it and determined that it was, in fact, mineralized. This land that you can't put a value on it, but in other words, the State may be giving up some things that they're getting mineral values in return. Another related factor is that the major and perhaps only mineable coal in the Beluga area is that that remains in State ownership. I know pretty much what company reserves figures are in the Beluga fields and that they do not exceed the figures brought out by the State or just introduced in testimony; in fact, they're appreciably less than this. This is coal that can be mined in a reasonable future, say the next 25 to 50 years. Okay, so as far as mineral, I think this has been over quite a few, to a large extent. A point that the committee, or legislative action might address, the State will receive land in this trade and these, the trade would obviously be more effected by the mining industry if we can be assured, or, not assured, but, if we can have some assurance that we would be able to prospect on this land. In other words. the land that the State is now getting trade in the Illiamna area, Kamishak Bay area and the Talkeetna Mountain area; some of this probably will end up as parks, say the Kamishak Bay area, the other bear protection area and the salmon area; but it also has high mineral potential. And so, we would feel that the lands that are returned to State selection, many of them should be open to mineral (IA). So, that's a point that I don't think has been brought up.
The most serious problem involved in the trade, that I can see, involves a change of D1 and D2 lands, specifically in the Lake Clark area.
The, and this is one area that's not treated in the economic evaluation of the State, in other words, the State has tried to look for trade offs in the paper that they've prepared; but the State, in the provisions of the government, had given up the right to select anything in this Lake Clark area which is about 30 townships. And, it further has agreed that this land would go into national parks status, not perhaps national parks, but it will be under national park management. We have further agreed that certain lands inthe Kenai Moose Range will not be automatically, that the Secretary of the Cook Inlet Native Association, will encourage their placement in the growing system. In other words, this land is getting the D2 type legislation, they're prejudicing they're already trying to make decent settlements. The land in the Lake Clark area includes a (IA) which has been billed and the value ... the only (IA) official number that can be estimated (IA) is open file publication of about three or four years ago, the value (IA) ... results in excess of 200 million

dollars. This land would go into national parks and, in effect, constitute a taking because there's no way you can mine a national park or a national park recreation area regardless of what the park service says will happen. This has been pretty much provided in Glacier Bay and if you give it to a national park, you've lost it. I think maybe this whole trade has gone so far that this particular item cannot be remedied but we see similar problems in the southern part of the Brooks Range where the State selected mineral land in the Mt. McKinley area where State-Fedreal trades were involved that the legislature should look closely to what lands the State is going to trade back to the Federal government. The national park service never gives up. They're the most effective group I've ever seen as far as land acquisition and they'll get you every possible way. Maybe some people think that's highly desireable but, I think giving of known mineral land is something that's really questionable; especially since there's no compensation mechanism that really appears to work. Okay, kind of emotional or something like that. But I would like to talk a little bit about taxation and revenue since this was yesterday and this 10 percent royalty provision was negotiated at a time when coal values were low. I think that you also need to put yourself in the position of (IA) at about this time. At the time that they started to pick up coal lands, there was no good coal potential anywhere in the United States. The people had pretty much given up on coal - you couldn't sell acreages in that area. They felt that here was an area where they could acquire coal which was not economical and by putting in a liquification plant upgrade that coal to the extent that it was economical. Now, events subsequent to that have probably made this coal economical and feasible, but that wasn't their initial plan and they acquired this ground in, they were going to convert it artifically to, say, an environmentally clean product. And, so, when you look at revenues, it's sometimes forgotten that the total revenue to the State isn't just a royaly --it's the State income tax, all the indirect benefits to the State and, in contradiction to what other people have said today, we do have a settlement tax, it's a 7 percent on the net tax, and it would exist on properties and would give a return to the State just as much as if it were to say, remain in State ownership. So, a lot of you people maybe should have been in the tax business anyway. I couldn't resist the chance to get a little plug in there.

One other further danger that I can see in things that are happening in the State is the tendancy for the, I don't know how to say it exactly, but the political, anyway, making the geological survey of the State into a political body. Now, I don't say that this is happening in this case, but the State administration has asked the State geological survey to come up with a document which justifies this trade and they asked them to do after the fact that the trade has been arranged. And I think that's extremely bad and even though I agree with the things in here, the fact that you're asking technical people to get into the political arena is very, very dangerous. It didn't happen in previous administrations because the Commissioner of Natural Resources knew something about resources. It happens here because, they have to go back down the staff to find out anything about natural resources.

(IA)

Well, the previous administration (IA) a minute ago, but they were trying

to acquire economic value for the citizens of the State of Alaska. Maybe they made some mistakes ... Thank you very much.

Sen. Poland: Thank you Mr. Hawley. Representative Brown.

Brown: I'm going to yield to (IA) first because I keep looking like I'm putting my hand up here all the time. Am I the only one asking questions?

Sen. Poland: You can just talk for all of us.

Rep. Brown: One of the things he talked about was a matter involving concern over this 10 percent royalty and I didn't really understand what it was that you were talking about or what it was you were worried (IA) or somebody.....

Hawley: Well,

Rep. Brown: Let me finish my comments and question --and that is, the State, my impression is you can't go ahead and change the royalty on coal that has already been granted and those in Cook Inlet, they may well be re-negotiating but they'll be re-negotiating on the basis of a business decision. The other party probably won't want it if (IA) negotiate (IA) lots of money for the operation. So, what is the danger and the worry here (IA) concerned about?

Hawley: Okay. The danger that I heard today is that people here say " oh boy, coal has just gone from $5 a ton to $20 a ton — there's really going to be a tremendous windfall profit that people can tax." I think you need to look carefully at that. The State can increase their royalties, it does have the potential at any time to increase, say to raise the net tax or other tax provisions for gaining revenue.

Rep. Brown: (IA) there's a royalty and then there's a tax.

Hawley: Okay, but there's still (IA) the State. It's sort of a technical question but it still comes out as profit, a piece of the pie and you can only cut it so small. Well, this thing is happening on oil legislation right now. They want to increase the (IA). They can increase the royalty (IA) little bit tricky right at the moment. But, don't assume that these people are going to make a tremendous windfall profit. If it goes to a liquification plan, about three or four years ago it was estimated that a plant like this would cost a hundred million dollars and no one had ever built one then; so, I think you're looking at capital costs of one to two hundred million dollars that they need to get back before you start worrying about trying to tax any excess profits. That's what I'm getting at. There's a tendancy to think that people in the resource industry are making .....

(tape nine)

Hawley: ... extract resources other than oil and gas, some specific industries of the entire century so far has been a net loss. (IA)

Sen. Poland: Are there any other further questions of Mr. Hawley? Thank you very much. Stewart Ramstad?

Sen. Poland: Cecil Barnes? And William Johnson has submitted written testimony to the committee and will not appear. Dr. Douglas Stark?

Stark: My name is Douglas Stark and I live in Anchorage. I want to say that I appreciate your committee being here and holding the exhaustive hearing on stoppages hearing this morning in Palmer. I have no personal ax to grind. I could stay home and trust that you will recommend approval of the agreement but I know that there is opposition for various reasons and a Legislative body such as yours can't help but think that maybe the testimony here is in fact representative of the constituents. So I figure it is desirable for citizens to testify. (IA) background of this issue. The Native Claims Settlement Act provides that the Cook Inlet region has a right to a certain amount of land because private parties in the State have already selected the best land for themselves. We have a problem in the regional (IA) court. Settlement Act provides a very rigid formula for land distribution but since there was a problem in this area, the State, the region and the feds sat down and negiotiated an agreement. This, in itself, is commendable because all factors can be taken into account (IA) this rigid statewide guidelines. (IA) which reads: "which was not to the benefit of one and the detriment of another but which would benefit all parties." In earlier stages of negotiations various issues were raised as to what the region wide did. During these negotiations, the region gave up the following claims: number one, the Swanson River oil fields; number two, the Campbell Airstrip, Point Campbell and Point Woronzof Tract; number three, the Beluga mental health coal lands. During the negotiations the State held public hearings on the trade. We may not agree with the region's position. We may not agree with the State's position. We may not agree with the federal position. But in a complex issue such as this, there is bound to be at least one bid from key cities, persons confined in this view. In other words, we have to take the whole thing as a package. This complex issue contains many safeguards for the various parties such as restrictions on the sale and restrictions on manner of use. And the State appears to gain 700,000 acres more from the Federal Government than it gives up to the region. In addition, the State gets the Campbell Airstrip, the Campbell Point, Point Woronzof Tracts. A lot of side issues have been brought up. Somebody that (IA) such as the Legislature versus the Administration. As far as care of the land and proper development, based on what I've observed, the land would be best off in the region's hands. In the final analysis we have to examine the alternatives to this agreement and what would happen if it were rejected. Another agreement would involve having to go back to Congress. The various staff who have devoted a substantial amount of effort to this issue, the State in particular, has many other things to do with its limited personnel, sources beside rehashing this issue. I doubt that at this moment, consideration would substantially improve the agreement. I think that it would be similar to the union that rejects an agreement, strikes for three more months and then accepts the same offer that it was originally offered. I think the agreement is a good one and the rejection of it is unwise and I urge your approval of it.

Sen. Poland: Thank you Dr. Stark and Representative ?

Rep. : What is your profession?

Stark: I'm a consultant in management engineering and planning.

: Pr ate?

Stark: Private practice.

: Thank you.

Sen. Poland: Representative Brown.

Rep. Brown: I only have one comment. You said there were some side issues that created muddy waters such as problem of the Legislature with (IA). As far as I'm concerned, I think that side issue is not a side issue. I also would (IA) I think it would have (IA) democrat, republicans or (IA) the legislature (IA) same thing. And it demonstrates a major problem, as people have testified and pointed out, we don't have procedures (IA) we should have. So that this kind of thing has been going on for (IA) So I would strongly disagree with that portion of your testimony. That's all I have to say.

Stark: Well, on that I think we all agree that that's an issue, whether it's a side issue or a prime issue, to some extent it is subsidary to the main issue which is the agreement itself. If the agreement is a good agreement for the State, is a good agreement for the region, a good agreement for the Federal Government, if the alternatives to approval are very negative, then the question is, what is the subsequent issue which is the agreement and if there are some problems at the way in which it was arrived at, then we'll see that it doesn't happen again.

Rep. Brown: But, you know, you really kind of work like you're disaproving the actions of these committes and legislative council and say someone raised a side issue to muddy the water as though there was some kind of criminal intent on the members of the legislative council who asked that the subcommittee involving Senator poland, Senator Rader and some of the others look into that, (IA) I don't think there's any kind of intent. I just wanted to call or question your use of the word. Maybe you didn't intend that that was the case.

Stark: No I didn't.

Sen. Poland: Are there any other questions of (IA)? Dr. Stark, thank you very much. John Baxandall? (IA) speak to us? I guess he's not here. Alec Sisson? Doris Clark? Andrew Camkoff?

Camkoff: My name is Andy Camkoff. I'm a stockholder in Cook Inlet Region. I'm also the General Manager for the Knik Village Corporation, the Alexander Creek Native Association and have been into the particular thing of the land trade quite extensively in the last few months. And in behalf of Knik-Knik stockholders, we have gone through quite an awful lot of additional work in achieving and selecting the entitlement lands that the two village corporations were entitled

to under the Act. We have looked into this trade quite extensively in behalf of our own particular demand problems in and around the Knik and Alexander village port townships prior to the negotiations and the outcome of the tri-party agreement. Knik and Alexander have been burdened with selecting lands in far-off locations such as Lake Clark, Talkeetna Mountains, west side Cook Inlet and only by the means and the outcome of Cook Inlet, State of Alaska and the Department of Interior land trades have the means to particular villages have arrived at any lands close and near to their villages' area. We highly support the trade. We welcome the opportunity to settle the land problems that the village corporations are faced with. The land trade has brought about an awful lot of additional work to corporations (IA) village. An awful lot of additional expenses. We feel that the land trade not only benefits Cook Inlet but also that of the village corporations that are involved that were forced into selecting deficiency lands in the Lake Clark area, the lower west side Cook Inlet. We had mixed emotions about identifying and selecting those lands that were set aside by the Secretary. Consequently we had no choice but to select them (IA) Cook Inlet, Lake Clark. We would have, and if this trade does not follow through with approval, these corporations would be burdened quite heavily in the future with a management problem. Even though we will have lands (IA) we are still going to be land holders in the lower Cook Inlet and geographical problems in consolidation with (IA) lands in the lower Cook Inlet and far-off places. But through the means of the land trade, we're very happy with this and we highly support it and we highly support and appreciate the efforts that have been extended and the time and dollars and efforts of Cook Inlet and the State and also the Department of the Interior. I know that - I don't think any of us have come and testified that this has directly affected this and my intentions were to come before you and present our faces and values and our understanding and that we do support it. But I...thank you.

Sen. Poland: Mr. Camkoff, when I talked to you earlier today, I told you that (IA) that I would like you to confirm that this offer also takes care of the Montana (IA) problem.

CamkoffL Yes. Montana and Caswell group, these two organizations and corporations are not village corporations, have been brought out and brought into the binding documents as to the extent that they are affected. They have been working with the Cook Inlet Region, they have these agreements and understandings of their problems. They too were - faces a lot of problems in identifying proper and desirable lands. Their problems, I believe, have been satisfied by Cook Inlet and the State.

Sen. Poland: Representative Huntinton?

Rep. Huntington: I get the feeling sitting here (IA) I'd like to ask you two questions. First of all, who was in agreement first (IA) Washington, Anchorage or Juneau?

Camkoff: Speaking of what agreement?

Rep. Huntington: (IA) Cook Inlet and (IA)

Camkoff: As it affects the villages within Cook Inlet?

Rep. Huntington: No. You know, you said you were working under (IA) Where was this (IA) drawn up at?

Camkoff: Okay. Let me drop back a little bit and draw you the village picture, those villages that are affected within this agreement within the Cook Inlet boundary. The Cook Inlet villages have brought in, I would call it, under a double tri-party agreement. The original tri-party agreement was called the Cook Inlet, the State of Alaska and the Department of the Interior tri-party. That set out and identified certain parameters of the trade. As it affected the villages, those had been as selected lands in Lake Clark, i involved us in this tri-party agreement where the Cook Inlet villages, State of Alaska and the affected villages. So when I'm talking about an agreement, we had an agreement with Cook Inlet and the State of complying and fulfilling these (IA) of these (IA).

Rep. Huntington: No. First I asked you where does this mean, where was this brought up - Washington D.C.? This agreement that (IA) the one where we're testifying on now, the (IA) royalty agreement. (IA) Washington D.C., Anchorage or Juneau?

Camkoff: I couldn't tell you.

Rep. Huntington: You don't know?

Camkoff: No. I think it's probably a combination of... I think that the federal (IA) much more technical (IA) than I do.

(inaudible)

: Inaudible

: Yes, the agreement, that is (IA) I would first (IA) about a year ago. We had some (IA) in the State (IA) the Federal Government and as we talked with people, plan and develop a coastal development (IA) contribution (IA) benefit Cook Inlet region (IA) and (IA)

Rep. Huntington: Then you feel the native corporations are capable of drawing up its own agreement then on their own side?

: Yes I do.

Rep. Huntington: Then you don't have to run to the Legislature everytime you want a (IA)?

: I agree.

Rep. Huntington: Thank you.

Sen. Poland: Are there any further questions of Mr. Camkoff?

Camkoff: Mr. Huntington, in the one agreement I was saying that the Knik village corporations had gone into Cook Inlet as a...

: I think that's... (IA) clarification of that law. I think (IA)

Camkoff: Knik village corporation and other villages that identified lands in Lake Clark more or less signed a contract agreement supporting those characteristics of the trade with Cook Inlet and we...

: (IA) the village corporations (IA) and the regions (IA) desire to have the villages present (IA) or abandon the selections in Lake Clark (IA) do that. And so the villages have to agree with (IA) selections in Lake Clark (IA) agree to do that and so (IA)

Rep. Huntington: Okay. The reason I asked you is that I get the feeling here that the Legislature wants to do that and everytime you want take (IA) paper and pencil and ask someone if it's okay (IA) and I don't agree with it.

(inaudible)

Sen. Poland: Are there any further questions of Mr. Camkoff? Thank you very much. John Alsworth?

Alsworth: Senator Poland, members of the committee, ladies and gentlemen, my name is John Alsworth, a native of Port Alsworth, Alaska. For your information Port Alsworth is located within the subject land of this hearing and has been in existence since 1941 when my father and mother moved there. We have incorporated as a native group as Tanalian Incorporated under the provisions of the Alaskan Native Land Claims Settlement Act of 1971. However, there are certain complications which have hindered our attempt to attain recognition and gain rightful benefits under this said Act. These complications are as follows: we are enrolled to Port Alsworth and shareholders in the Bristol Bay Region. The location of Port Alsworth is within the boundaries of the Cook Inlet Region. I understand that this land was withdrawn as regional deficiency land and converted to village deficiency land by Public Land Offer. Prior to December 18th of last year certain villages of Cook Inlet filed applications for the lands we have applied for. The reason for this testimony is to bring to light the property interests which we lay claim to within this contested area. Regardless of the outcome, we want our claim to the Port Alsworth lands protected and written into the land swap agreement. After attending the hearings here tonight, our feeling as a group is that we are being ignored by higher interests of bigger corporations or operations. After thirty-five years of my family living at Port Alsworth, we as a group feel that we should have first choice of the land to be filed on.

Rep. Anderson: Mr. Alsworth, really as far as I can determine, there's very little that this committee can do to resolve your problems. But I think it's very helpful for your claim from your point of view to have this particular problem brought to our attention. I think that Mr. Huhndorf has probably listened very carefully to your need here and I'm sure that he will be getting in contact with you. So I think it would be a good idea if you two got together.

Sen. Poland: Senator Rader.

Sen. Rader: Excuse me, I understand, Mr. Alsworth, are you a member of the Cook Inlet (IA) organization?

Alsworth: No. I'm a member of Bristol Bay.

(inaudible)

: (IA) Cook Inlet. (IA) is that down south of Homer?

: No, that's located on Lake Clark.

: Oh, that's right. Yes, that's right... We're, as you've probably gathered by what you have heard here, we (IA) position, you write this Act. I don't know... (IA) I don't know what should be done...

Sen. Poland: (IA) I appreciate Mr. Alsworth's bringing this to our attention but Rep. Anderson and I feel sure that he'll be able to work with Mr. Huhndorf...

Alsworth: I kind of feel, myself, like a mouse under the rug because I'm representing a second people in this group. And I realize that I'm facing the State, Federal Government and the Cook Inlet Native Corporation and this is something that, you know, that I realize could be rather impossible for a group of (IA). But the reason why I come here tonight is to state my interest in the land. I've lived here all my life and it's kind of like someone giving away your (IA)

Sen. Poland: Representative Hershberger.

Rep. Hershberger: John, how much, beside the strip of your actual homesite and where the house is, acreage is involved?

Alsworth: 2,240 acres.

Rep. Hershberger: Less than 2,500 acres. All along the same continuous...

Alsworth: My dad has 160 acres patented that's on the edge of that.

: This was in the plot?

Alsworth: The Port Alsworth area was withdrawn from some five villages now on the south side of Cook Inlet.

(ianudible)

Alsworth: And I realize the problem. The land is rather inaccessible, you can't, you know...

(inaudible)

Sen. Poland This is something over which we haven't any...

: Has the earmarkings of an internal problem.

Sen. Poland: (IA) two regions...

Sen. Poland: Mr. Huhndorf, do you care to comment on...

Huhndorf: I've had a couple of occasions to talk with representatives of Port Alsworth and (IA) trying to (IA) under the trade (IA) and the land would then revert back to its original (IA) we take that stand (IA) and we're prepared to (IA)

: (ianudible)

Sen. Poland: When could we (IA)

Huhndorf: Inaudible

Sen. Poland: Thank you Mr. Alsworth. Thank you. Nelson Ankapak?

Ankapak: Good evening Madam Chairman, ladies and gentlemen. I really don't know where to begin primarily because each time that there is a person up here testifying for Cook Inlet Region, State of Alaska and the Department of Interior land swap it seems like they have looked at my notes. So I really can't (laughter) Anyway, because we have a limited amount of time, I'll make my statement very brief. You have just recently got the agreement between Cook Inlet Region, State of Alaska and the Department of Interior was finalized. I believe that this is a first of its kind to be reached here in Alaska. That is, that three of the largest land holders have came to an agreement, State of Alaska and the native community. We have followed the progress of the course of agreement very closely, primarily because Calista Corporation is one of the corporations that is adjacent to Cook Inlet. And I might add that although the agreement identifies Cook Inlet, State of Alaska and (IA) as parties to that agreement, that before the terms were finalized that Cook Inlet and the members of Calista Regional Corporation had a few meetings and came to some kind of a compromise. I might add that when the Land Claims Act was passed in 1971 and consequently signed into law on December 18, 1971 by, then, President Nixon, the United States Congress declared that there was a need for a fair and just settlement of claims of (IA). Some of the terms of the land swap, I believe, even (IA) by the Federal Government, the State of Alaska to fulfill this need. I believe that late in the game, the Dept of Interior realizing that they did not really fully fulfill, and yet the Act was passed by the United States Congress for fair and just settlement. Thus, I beleive, that was one of the reasons why the tri-party agreement was reached. In short, Calista Corporation is supportive of the terms of the Cook Inlet settlement and would urge the State Legislatures to support them of it. Thank you very much.

Sen. Poland: Thank you. Are there any questions for Mr. Ankapak? Thank you very much Mr. Ankapak for appearing here this evening. (IA)

Armstrong: My name is Carl Armstrong. I'm chairman of the Kodiak Regional Native Corporation in the Kodiak Islands. I'm secretary of that corporation and I serve on the staff as public relations. I'm editor of the Kodiak Islander newspaper. I'm here to urge that the settlement that has been proposed be approved and to... I think I wrote out a list. I find it almost incredible that the Alaska Department of Fish & Game, Alaska Wildlife Service, the U.S. Forest Service, the Land Use Planning Commission, the Governor, the environmentalists, the Borough and the Congressional delegation made up of democrats and republicans are in agreement. I think in the course of the four years we have tried to

implement the Act, believe me, it has never happened before.
I serve as the... Kasilof Land Department...

(break in tape)

Armstrong: ...at least I'm in debt. Hopefully you will correct that situation. In addition to all my other activities, I often serve as a consultant to other regional corporations around there - Iliamna Corporation. Those of you who have been in the Legislature a long time, I think John Rader was the one who told me that a consultant -the definition of a consultant is a man who knows eighty-seven different ways of making a buck but he doesn't know any women. Sometimes that's the way we feel in trying to implement this Act. This agreement, placed in front of you, represents, we think in Kodiak, a pioneering effort under the most difficult circumstance, combining land planning, equal value, the interest of local communities, the future economy of the State and the need for a just and equitable settlement. I'm not going to say anymore than that. I would just urge that you consider the fact that all these agencies and these personalities are very diverse and yet in consulting together on a most complicated matter have come to an agreement. And they put it in front of you people and it's up to the Alaska Legislature now to either say yes or no. And that's my understanding. If you try to alter it, my understanding, than it's all over with. You're saying that in effect (IA) I hope that you won't do that. It would seem to me that the Congresssional delegation, after the display they made over the two hundred mile limit, if they could come to an agreement on this complicated matter, it surely went through the mill, so all the compromises have been made. All the debates have been spoken and there isn't much more than can be done. I'm aware of some of the complications that they got in to and of the sacrifices that everbody has contributed in arriving at some sort of an agreement that is acceptable. I sincerely urge that you do everything within your comprehension to approve that agreement. Thank you.

Sen. Poland: Thank you Mr. Armstrong. Mr. Anderson wants to read the statement of the Bristol Bay Corporation into the record and we have one more witness.

Rep. Anderson: Thank you. I just received a letter from the Bristol Bay Native Corporation that they wrote to me and they state that, "the Bristol Bay Native Corporation hereby goes on record in support of the land exchange agreement between the Federal Government, the State of Alaska and the Cook Inlet Region Incorporated provided that the parties involved recognize and give assurance that the property interests of Port Alsworth are protected." And that's signed by Harvey Samuelson, President of the Bristol Bay Native corporation.

Sen. Poland: Thank you. Mr. Galliett.

Galliett: (IA) Maps (IA) like to mention took me about 60 seconds and think I can do it.
Sen. Poland: Mr. Galliett is our last witness so we will not be meeting (IA)

(inaudible - many people talking at once)

Galliett: Senator Poland, members of the committee, thank you for the opportunity to (IA) I know you've waited a long time (IA) and I admire your tenacity. I think one question here at the outset should be, how far ahead should a statesman

look? I don't know whether you consider yourselves statesmen or not but what we're talking about here is income to our children, our childrens' children and beyond that. The question is whether we're going to give that income to a small percentage of the population of this State or whether the eighty percent of the population of this State is going to retain our most valuable State lands. Now, we're going to be here a long time as citizens and our children are going to be here a long time. Now, what surface and mineral estate are we giving away in this deal? There's a long list of lands that I could cite and it would just waste your time. You have the list. It's difficult and tedious to analyze it. It's taken me weeks. I presume you will just have to do it. The most important moneywise piece of land in this deal is the Beluga coal fields. But close in importance would be the Homer coal fields. And possible next in order would be an industrial and port site on the west side of Cook Inlet which is also involved in this give-away. Now I think, I will try to confine my technical remarks to the Beluga coal fields and the Homer coal fields because there isn't time to go in to the other details. One of the problems that we have with this deal is its uncertainty. It's a blank check to which you're going to put your signatures and then Mr. Smith behind me is going to sit down with the native corporations and he is going to decide what he wants to give them of our State lands. You are not going to know the deal. The way it is written does not permit that. Now one of the problems built into this arrangement, and it was done deliberately because otherwise too many objections would have arisen in particular instances of land being given away, but one of the problems is that many of these villages have overselected, they have selected according to the map which sets forth all alternatives. And I'm not sure that anyone knows what it is they're going to get or what it is that you're being asked to give away to villages. You've seen various figures in the newspapers and you have, I believe, a copy of all my articles in your hand so there is no point in belaboring that issue. How much coal are we giving away? You've heard the experts from the Division of Lands and the Division of Geological/Geophysical Survey who were called in after the fact to justify this deal give their quantities. Now, I would like to tell you how I got into this so you understand something about whether I have a conflict of interest and just how much work has gone into my determination of quantities of coal in the Beluga area. In the first place, I was brought into this by an oil company which calls itself an energy company which still has interests in Alaska that they're pursuing with very, very little help from me. They asked, when they put me to work looking for an industrial site for a refinery to refine State royalty oil, to carefully consider the fact that they were an oil company and therefore interested in coal and not merely oil or gas. So I think I went overboard a little and acquired an awful lot more information than they ever expected. At any rate, they got it. And particularly on the Beluga coal fields. Now, initially I depended on a report by Barnes which is available to the committee which dealt almost entirely with surface outcrops because in the days when Barnes did his work, t n or twelve years ago, no one would think any deeper than a very limited stripping depth of coal and ...

(tape ten)

Galliett: ...the knowledge of how to convert it into something that we can afford to ship, the fact that we're now at the point where we can make oil out of coal competitively with foreign oil. The situation is getting slowly better as research improves the details of the processes that are available to us. The first oil control plant was just contracted for the United States government and it's to go in near St. Louis. This production plant and not merely a (IA). What I did later, after my initial studies of coal and acceptance of some of Barne's figures, was look back again at the rules that these people in the geological profession applied. When they estimate coal, for example, they are very conservative. They don't like to be put in the position of making a grand statement and later having it shot full of holes and being embaressed. So rather than be embarrasses, they establish very arbitrary limits as to how far they will project coal, or infer coal, from the outcroppings or drill holes. Now, this kind of estimate is totally inadequate for the purpose of a large corporation or the State or any other person or group that has the stewardship of valuable property. Of course, the best information, there are others that weren't, and using the mud logs and the electric logs, he has given us information on coal how much coal at varied depths, how thick, what kind of (IA) and various information like this that general good math (IA) how much thickness of coal occurs between 0 and 2,000 feet, 2,000 to 5,000 feet and then again from 0 to 10,000 feet. The quantities of coal are almost unbelievable and yet, on top of all that, I have obtained logs on some of the wells closest to the Beluga area and its my opinion that Mr. McGee, again, as geologists are wont to be, he has been very conservative. I think he has understated even the enormous amounts of coal, but nevertheless, I accepted his figures. I even reduced his figures in making projection from them. Now one of the problems you have here (IA) value (IA) coal (IA) corporation (IA) one we have a lot of faults (IA) all the oil and gas wealth comes in this (IA) faults (IA) instead of drawing the arbitrary (IA) lowland (IA) now, what this figure gives us finally? (IA) coal (IA) 2,000 feet

(testimony barely audible)

(IA) don't understand (IA) the Department of Interior has practically required that coal land (IA) prospecting here in my studies somewhat based on actual physical knowledge. One thing that I'm very conservative in when I talked to Mr. Hackett of the University, still formulating his information on this area. He was (IA) prospectus, he was (IA) information and I recollect and my notes reflect (IA) tertiary sediments contain coal in varying amounts (IA). So to some extent all this work is based on (IA) actual drill holes and the use of mud (IA) the only thing I can't report to you, as that I have not completed the analysis of the electric log - we're working on it (IA) next week instead of coming in here and giving you a lot of malarky about how little coal there is in defense of the deal that's already been made. At least you can see I've done some actual physical work on it and I bring the results of it to you and they can critize my newspaper articles and they can critize my work but at least you have it. (IA) Now from that from those contours, I took every township in the Beluga basin that was in the swap area, and marked on the maps, and I took three

things: I took the percentage of the townships that contained any coal, that is, within the sedimentary basin, the depth of coal as shown by the contours within 2,000 feet of the surface, and finally the 50% factor of ultimate recovery. That would yield recoverable coal, if you multiply each township (IA) figure by 40 million tons for every foot of coal covering the township. The mechanics are really not so important. I've done this twice, independently. The first time I came up with 15 billion, 800 million tons. The second time I came up with 13 billion. Now, we're allowed certain variations in that -it's very crude. I make no claims that it is absolutely accurate or that it constitutes very reliable information. But it's better than just making guesses or taking an arbitrary boundary around coal outcrops. It's a heck of a lot better than taking below that level. And that's what has been done. (IA) Now, since I did that, I've listened to Mr. Hackett who tells us the sedimentary base is several thousand feet deeper than the information on which my prospectus was based. If anything, it nearly halves the coal, not greatly but somewhat. Now, there's so much coal in that area that you're not going to mine it out within a short period of years. It's not going to be a flash in the pan like some of our oil fields. You're going to be mining there for a hundred years or more, probably more. We really needn't concern ourselves with whether it's going to be surface mining or underground mining, we know (IA) accessibility to deep tide water. It's going to be mined by surface mining methods first, then underground methods as mining becomes established and market lines are put up. And finally, I have no doubts but what underground gasification will take the last measures of coal in that area. Possibly long after we're gone. Mental health lands, by comparison, mentioned 13 billion. The State figures on mental health lands with similar calculations came up with about 10 billion (IA) We're not talking about 75% having been taken out of this deal, not at all. We're talking about more in the deal yet than what's taken out. We can labor over figures all night and you folks are tired, so I'll go on. A critical deep water port (IA) we're giving away in this deal will probably end up in the hands (IA) because they're allowed to select one township of surfaces in that area, too. Why is that site so important to us? (IA) has done damn good planning in this State than wander in and out with all kinds of environmental (IA) and never sits down and talks planning. Where are the railroads going to go, where are the pipelines going to go, where are the cities going to stand, where (IA) going to be. Do they think about it (IA)

(testimony becomes nearly inaudible again)

do they think we're going to stay 300 or 400 thousand (IA) that's ridiculous (IA) we should have State lands for some physical improvements that must be made for lack of good (IA) and because I have a client who's interested, I have (IA) bring (IA) over future life of the enormous coal field. There's simply no correspondence in value. This is something that takes a lot of work and the only way to do it, is to make a list and start putting your dollar values down on both sides of the column. I'd like to ask another question to illustrate some of the troubles with this (IA). Why did the amendments to our Statehood Act permit a waiver of the equal value provision? Well, I can tell you in a few words. That amendment had to be put in or people like myself and other citizens who are aggrieved by this

whole thing, would have stopped it in court on federal grounds, not State law grounds, but federal law. Now, what's going to happen is, unless you folks write a bill to eliminate equal values from our State Act, this thing is going to be challenged in the State courts on the basis of our statutes. The changes shall be on the basis of equal value and either party to the exchange (IA) cash in order to equalize the value of the property of exchange. I'm not asking you to write such a provision. I'd just as soon you passed a resolution and then we'll take it to court. (IA) don't want injustice to most Alaskans. You have many proponents here, many of them stand to benefit financially. Why is this deal being pushed so vigorously and in such a short time? Another year or two would permit the State to do the transferring necessary to determine what the values are and do it right. I submit that (IA) of Norway, who's going to (IA) coal and Inland Pacific who owns that coal (IA) would never, never dispose of even a fraction of these coal lands without a drilling program and a complete geological report and this report that you got from the State Division of Geological/Geophysical Survey simply does not conform to what constitutes a good geological report and it lacks information from drilling. The cost of that drilling is such a tiny fraction of the potential values lost here that it simply is not right to dispose of that land without knowing what you're letting go.

I think it boils down to one thing - these Cook Inlet lands that you are being asked to dispose of (IA) survey once they change hands, any production, of course, benefits these native corporations, but more important than that production, which is going to be very low income production for some years I'm afraid, is the asset value added to this cost. It shores up the soft so that other management still needs (IA) values (IA) in a few years when it's saleable will have a very high value. It will simply be impossible to lose those values in that time.

What is a prudent course for the State to do in a thing like this so that all citizens are treated fairly and we don't rob one group to benefit another? We're all citizens of the State, some would rather be treated specially and given special benefits. But we're all together and many of us plan to stay and we'll probably be buried here. First, I suggest that you reject this blank check trade. It is wrong. Second, I say drill these coal fields; that takes an appropriation. Then you'll know what you're doing. (IA) Finally, give the native corporations a chance to obtain title to specific lands and rights that they claim and to make the selections that they're given two years to make. (IA) instead of the mystery (IA) adjucated by Mr. Smith. Another item, trade only on an equal value basis as determined by independent appraisals. I

do not trust the State administration to appraise this land in any way. Another recommendation, all coal lands should be frozen. We're throwing away income on the cheap (IA) have no escalation (IA). This should be done immediately. Finally, (IA) change our coal royalties to a percentage (IA) price so that we get a fair return on our (IA). And last, but not least, if we turn this land over to the Native corporation for a profit making enterprise, and they administer their lease to another profit mining company, you're throwing the doors open for all the evils of surface mining that occured in the other states. I hardly need to remind you that you don't have any surface mining laws, you don't have any coal conservation laws that I know of. You're starting this thing loose for destruction just as bad as I've seen in Missouri around my wife's old home —mounds of material that will take years to grow over with something (IA)....Finally, and I think this makes sense to the people on this Committee and the Legislature, let's call a spade a spade. I would like to see this committee and this legislature purge itself of conflict of interest in this matter. There are too many people that have a financial gain in this deal serving on this committee and in the Legislature and I would like to see them not vote on this issue at all. Thank you.

Sen Poland: Representative Cotton.

Rep. Cotton: You know, there are probably a lot of comments to be made about many of the things you said, but, one thing you did mention about people on the committee and people in the Legislature that may have a conflict of interest making a decision on their own not to vote on the matter, of course you know, that's not up to them. Any time a member of the Legislature decides that they don't want to vote on an issue, they have to have the full consent of the rest of the body and that's a point I thought you might not be aware of.

Galliett: I'm aware of it. I don't know how to solve it but I also know the system, the principle of good government should not be overlooked in the matter of such potentially great loss to the people. It won't pass. It will be observed and it will be criticized and it shouldn't be done that way.

Sen. Poland: Representative Osterback.

Rep. Osterback: Madam Chairman. When you talk about "we", would you explain who "we" is?

Sen. Poland: As far as I'm concerned, right now when I talk about we, I'm talking about 80% of the non-native citizens.

Rep. Osterback: Well, you were talking about the (IA) too and we don't have any up here unless its from California or Texas.

: That's right.

Rep. Osterback: So, you don't want, you want everything to (IA) be controlled (IA)...

: No. ABsoluetely not.

Rep. Osterback: Well, that's the way I took it (IA).

: Well, that's not right. I don't. (IA) State of Alaska to retain ownership of their lands and to administer them in the public interest and in an open way.

Sen. Poland: Senator Rodey.

Sen. Rodey: You mentioned certain conflict of interest that the Legislature has. Could you be more specific with regard to those so that you don't implicate the whole Legislature (IA) would like to know (IA) conflict of interest (IA) suggest a better word.

: I think suggest (IA) I have gone thru the records in the Alaska Public Office Commission of most of the Legislators - not all of them - I didn't really have time. But I have found that quite a substantial number own stock in Native corporations and some that apparently should have reported stock in Native corporations either as trust or interest actual ownership that have not so reported. They very probably do, because they hold office in Native corporation, and (IA) the records are public....I don't see any great point in mentioning names and I probably (IA) ....

: (IA) object.

Sen. Poland: Senator Rodey.

Rodey : You stated that you think that the Governor's royalty rate as unreasonable. I agree with you, this was a fantastic give-away by the State But you also state that if in 17 or 18 years I believe, that you said we we could do something about the royalty rates. On what do you base that statement?

Galliett: Discussions with various people and in reading the contracts that we have with the mining companies. There is going to be some litigation, I feel, when they, when the State attempts to change these but, I think it can be done, in fact, it must be done. You can't leave these royalties rates (IA).

: (IA) I would hope you object (IA). Price could answer that question as to the validity of the leases for the forseeable future and the length of years by which their value is judged and how long it will be before (IA).

Price: (IA)

Galliett: Now, may I comment (IA). I don't propose doing anything doing anything to those leases during the next 18 years or so, that's a valid contract but when it's time for re-negotiations, that's the time to

I think, we can make a change. When the laws are passed, some of them are not direct. Some of them (IA) negotiations. Sitting down with these people and telling them "alright, you've gotten away with a good thing for 18 years and you've paid all your development costs, now we're going to get ours back again," but that's something that will have to be left to the year that it comes up.

: (IA) leases. I'm not aware of the attitudes the State might have in re-negotiating. (IA).

Price: (IA)

: (IA)

: (IA)

: Thank you.

Sen. Poland: Is Mr. Bateman still here? Representative Cotten.

Rep. Cotten: I'd like to comment on something that Senator Rodey mentioned, also Mr. Galliett said that there sometimes not so direct methods of re-negotiating and someone else brought up the fact that there is a mining license tax that probably would apply to the coal fields. In answer to your question, how do you re-negotiate (IA) might be worth (IA)
(IA) comment. (IA)....In regards to who owns the land, of course, a severance tax is being applied to this coal and the State can derive the benefits from them, the royalties, in this case would probably be much less than oil severance providing the vast bulk of 90% of the income to the State. Would you comment on this, the question being does the actual ownership of the land make a great deal of difference to the State has the ability thru severance tax to extract any reasonable amount of income from it that it (IA) of that resource.

Galliett: That's a very good point and it's one I've thought about a lot. It depends on the make-up of the Legislature, I suppose. Now, let's be realistic. You've got a group that will benefit from no severance tax because it's their land, their money, their income (IA). They will oppose it. It's not too easy (IA)...you fellas haven't been awfully successful in taxing the mining industry as I see it. What'll happen in these proposed severances taxes is pretty obvious (IA) money that the native corporations might otherwise enjoy?.

: (IA)

Sen. Poland: Mr. Hawley.

Hawley: (IA)
The gentleman's point is well taken, as far as drilling having been done, however, the depth of that drilling is inadequate to show the reserves of deposit resources of coal that are in that area. I've talked to some of the people that held leases (IA)...they've told me that results of their limited drilling. None of those people have, except possibly (IA) and one or two others, have wanted to spend a lot of money drilling because, up until recently, the

whole thing didn't look like a very good proposition. You must realize that only a very large mine over there can afford all of the overhead costs in establishing shipping facilities, (IA) and so on. So, a lot of the little guys fall by the wayside. I have been advised that there's enough confidential information that is available to you but not to me that you could learn a lot more, alot more about these coal fields than I can make available to you with the information that is public. I would suggest that this information be presented to you before you make any decision. But, more than that, none of us can know what's going to happen in that sedimentary basin which is immediately adjacent to (IA) thickness of coal measures (IA), of course, until you drill it. (IA) to drill it, there are companies that would be only too happy to do it. Until you drill it, you don't know what you're getting into and that's what, in my opinion, you need to do to protect the State.
I don't think this agreement has to go this year or next, maybe the year after. I think being rushed into this thing is typical of the pressure and tactics and all justifications for this haste, this three weeks or a month to the Legislature, ...are just an attempt to cover up what you could discover or perhaps discover in four years in just a little more time. I think the Congress would fully understand if you hesitated to dispose of a coal field as energy resources and in all probability as great as Prudhoe, or greater, while you took those minimum steps to determine just what you're doing.

Sen. Poland: Are there any further questions of Mr. Galliett. Thank you very much. Is there anyone who wants to testify. We will not resume the meeting tomorrow. Have we covered all the names we had on the list of people that were here? Yes?

: I'd just like to say (IA) .... My name is Bob and I've also (IA) geologist here in Anchorage. I've lived here in Alaska for several years now and have been involved mainly in metal exploration for several companies. I'd just like to put this thing in the full potential here which is the main (IA) people are concerned about into a perspective of profitability. This is what we're talking about over here is what the State gives up and what the Cook Inlet Region, or whoever, may gain from it is profitability in the long term. We can do a lot of things with percentages and figures here. It has been suggested (IA) .... there's lots and lots of drill holes, particularly south of Katchimak and the Cook Inlet Basin that indicate a fantastic amount of reserves in coal if you total up,as has been done here, every single bed down to 2,000 feet and if you go below that to 5,000 feet, you come up with just whopping figures and if you put a dollar value per ton on this figure, even if it's very low, with those kinds of figures, you arrive at an exhorbitant potential dollars in possible royalties. But, the thing is that the Committee here should be considering as far as this land trade goes, is the profitability of reserves (IA) at those depths the coal is there (IA) the near fuuure and that might not be in the next hundred years, there's not going to amount to that much. There's coal, even more coal reserves than that underneath the Cook Inlet Basin, underneath the water and a lot of talk has been generated here about possible gasification methods and (IA) going to be able to turn this coal into oil and so forth.
There's some credibility to that and hopefully this is going to be one of the ways that the U. S. and Alaska keeps going here as far as energy goes but, again, you're forced with the same thing, the deeper you go, the more

expensive the cost of drilling, the more expensive the cost of your vacuum and the whole thing deals in profitiblity. If you can't its always been in our economic system, if the dollars aren't there, then there's either another way found or the price goes up to (IA) ...And my suggestion is that in spite of the fantastic tonnages that are possible in the Beluga area that it is the profitability of the thing that the committee should be concerned with and I contend that this is far below what has been spoken of here, if the profitability from my estimates and from other reports over there is in the order of a few billion dollars. The State reports contend there is 15 million dollars or so and another projections have been up into 60 million dollars but the point is that it's a few million dollars of potential royalties if they're sure and in the long run and not billions of dollars. Once you look at the overall land trade here and what the State is getting and what the Federal Government is getting.
In order to appease Cook Inlet, and other parties here, the State would be giving up a potential few million dollars worth of mining royalties but in turn they're gaining surface real estate of high value near Anchorage, Campbell Airstrip and so forth that's been talked about; but, if you want to talk about future dollars and what this (IA) may be worth in future years, what's Campbell Airstrip going to be worth in 50 or a hundred years? I just thought I would like to get a point in there on bringing this thing back into perspective a little bit as to what the Committee should be looking at. If you have questions, I might be able to help you.

Sen. Poland: Are there any questions of (IA). Thank you very much. We appreciate everyone's patience and (IA).

: Madam Chairman, (IA) perhaps an opportunity to speak concerning some of the points that we have not had the ability to listen to some of the comments, however, because of the late hour, because of the people (IA) of the committee to put in, and also because of your request that, again, certain members of the staff be present in Juneau, I think that if we could have access to some of the information that Mr. Galliett has indicated here, we could probably, by Wednesday, have a response from the State Geological Survey concerning some of the items raised and other points that came up from some of the speakers (IA) so if that's ok, refer that till Wednesday.

Sen. Poland: (IA)

: (IA)

Adjournment

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 2, 1976

SUBJECT: Cook Inlet Land Trade (Work Order 2316)

TO: Senator Kay Poland
Chairman, Senate Resources Committee

FROM: Billy G. Berrier BGB
Director, Legal Services

As a result of substantial negotiations between the State of Alaska, the United States and the Cook Inlet Region, Inc., an agreement was reached concerning the exchange of land among the parties. Since the agreement is quite complex and has been presented in great detail to your committee I will not attempt to setout the terms except to point out that one essential element of the agreement is the transfer of subsurface lands by the State of Alaska. This transfer is to be made to the United States which will in turn transfer the lands to CRIR.

It is my opinion that under existing state law adequate authority to implement this agreement does not exist and that, therefore, for the State of Alaska to make the conveyances required under the agreement enabling legislation is mandatory.

While it would appear that problems exist under section 6(i) of the Alaska Statehood Act, in my opinion these problems are apparent rather than real. This section provides:

> "(i) All grants made or confirmed under this Act shall include mineral deposits. The grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express conditions that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all the minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. Mineral deposits in such lands shall be subject to lease by the State as the State legislature may direct: Provided, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States District Court for the District of Alaska."

This section is not a prohibition to the State of transfer of mineral rights. It is legally a conditional conveyance to the state, conditioned upon the requirement that mineral lands granted by the state be granted subject to reservation of all the minerals, with the enforcement of the condition being forfeiture of the lands to the United States by appropriate proceedings.

Under this pattern a transfer to the United States is not included. To look at it another way in the direct context of this bill if the section did not apply to the transfer to the United States, then the contemplated transaction is valid and title to the land and minerals passes to the United States; but if it were held that the section does apply to the United States a grant to the United States of the minerals, would be a breach of condition making both lands and minerals subject to forfeiture to the United States. In either event title would go to the United States contingently under the second hyposthesis upon a forfeiture action. It would be an unreasonable interpretation of the section to consider it applicable to transfers to the United States.

In any event, at this stage the question is hypothetical since it would have been removed by passage of HR 6644.

However, passage of the federal act has no effect on the state law. It is clear that the United States does not have authority to override state law in this area, and it is equally clear that in this bill Congress did not attempt to assert such an authority.

In my opinion the transfer of the surface estate contemplated in the agreement is authorized under AS 38.05.315 which provides in relevant part:

> "(a) the lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision..."

This leaves the question as to whether there is adequate authority to convey the mineral estate. In my opinion there is not.

Alaska law requires reservations of mineral rights to the State of Alaska in any conveyance AS 38.05.125 provides in relevant part:

> "RESERVATION. Each contract for the sale, lease, or grant of state land, and each deed to state land, properties or interest in state land, made under §§315-325 of this chapter or §§45-120 of this chapter, except for those lands originally acquired by purchase, exchange, condemnation, gift, escheat or foreclosure are subject to the following reservations:..."

This section then goes on to setout the wording of the reservation.

Transfers to the United States are specifically included in the section. It should be noted here that the rationale under which transfers to the United States are excluded from the operation of section 6(i) of the Statehood Act is not applicable. Unlike section 6(i), which is a condition on a grant between sovereigns, section 125 is positive law. As the section is worded the mineral reservations apply whether set out in the conveying document or not and would apply even though the conveying document expressly attempted to convey the subservice estate.

The administration has set out three sources of authority for the proposed land exchange. Two of the three are clearly not relevant to a proposed subsurface conveyance. The authority of the commissioner of natural resources under AS 38.05.020(b)(2) and the authority of the director of the division of lands under AS 35.05.335(a)(14) were cited as authorization. While these do give authority to enter into land trades and agreements this authority is clearly limited to transactions made in accordance with other law. Any contention that these sections authorize either the commissioner or the director to waive positive provisions of law must rest on the fundamentally unsound assumption that, except for these sections, the rest of the title has legal effect only to the extent that the commissioner and director determine that it should have legal effect.

The provisions of AS 38.95.060 especially when considered in the light of the 1972 House Judiciary statement in connection with the bill is relevant, but in my opinion not adequate authority for the proposed land exchange. Paragraph (b) of that section provides:

> "(b) An individual Native (as defined in the federal Act) or a corporation referred to in (a) of this section may exchange land or an interest in land with any other individual Native or corporation referred to in (a) of this section or the state for the purpose of effecting land consolidations or to facilitate the management or development of the land."

The report from House Judiciary Committee accompanying CSHB 731 which was the source of this section, comments on this section as follows:

"AS 38.15.060. Exchange of Land. Under the 1968 state Act, Native corporations were granted the right to obtain state-patented lands near the villages through exchange of lands with the state, with the consent of the Alaska Native Commission. This section revises and relocates those provisions to reflect the form of the federal Act, substituting the consent of the governor for consent of the commission, and adds a provision comparable to section 22(f) of the federal Act which provides for exchanges between the federal government and Native corporations or the state. The principle is

extended in this section to exchanges between Native corporations and the state. A "boot" clause comparable to the federal language is also included. The statehood Act will have to be amended to permit the state to exchange mineral interests, or the Secretary of the Interior will have to consent to being an intermediary under section 22(f) transfers in order to gain full utility from the exchange concept."

In light of these comments, section 22(f) of the Alaska Native Claims Settlement Act must also be looked at. That section provides:

> "(f) The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange any lands or interest therein in Alaska under their jurisdiction for lands or interest therein of the Village Corporations, Regional Corporations, individuals, or the State for the purpose of effecting land consolidations or to facilitate the management or development of the land. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged."

It can and has been, argued that the clearly stated purpose of the Alaska law was to facilitate settlement under the Alaska Native Claims Settlement Act and, since section 22(f) was specifically referred to AS 38.95.060 gives to the state administration equivalent authority to the authority given to the secretaries under section 22(f).

Although there is logic to this argument, it has extremely serious shortcomings. The most obvious shortcoming is that the language of paragraph .060(b) simply is not as broad as the language of 22(f). Unlike 22(f) which gives direct authority to the secretaries, paragraph (b) on its face gives authority only to the individual natives and native coorporations. The argument by inference is if these are given authority to exchange land or interest in land with the state, the state inferentially must have been given authority under this section to exchange land is somewhat weak but plausable. But the inference that follows, if this section is to be treated as authorization for the proposed transfer, is quite far fetched. That inference is that since the purpose of the act was to facilitate settlement under the Alaska Native Claims Settlement Act and since the section inferentially authorizes the state to exchange land or an interest in land, it also authorizes the state to transfer any interest they may have in land regardless of other laws. One of the sections necessarily waived would be AS 38.05.125. To accept this hypothesis one would have to accept that by a double pyramid inference the legislature repealed for this specific type case a major state policy embodied both in the statehood act and in state statute. In my opinion this interpretation places far more weight on inferential reasoning and the statement of intent than the reasoning or statement can bear.

A more reasonable interpretation of the legislature's decision not to grant authority commensurate with that granted in section 22(f), (and as noted in the committee report, section 22(f) was before the legislature), is found in the last sentence in the Statement of Intent quoted. That is the transfers of subsurface estates to other than the United States are prohibited by the Statehood Act, no amendment to the Statehood Act had been made at that time leaving a serious problem of possible forfeitures if the problem were dealt with then rather than awaiting possible amendment of the Statehood Act. Under this interpretation, as under the clear language of the statute, the provisions of AS 38.05.125 are unaffected by AS 38.95.060.

Based upon this analysis, it is my opinion that the transfer of the subsurface estate contemplated in the Cook Inlet Land Exchange is specifically prohibited by state law, that this law is uneffected by the federal act, and that if it is desired that the exchange be made enabling legislation will be necessary. At any event, regardless of the legal theory adopted, it is clear that basing title to land of very substantital value upon a legal foundation open to serious question is most unsatisfactory.

Corrective legislation would fall in three classes:

1. General legislation covering all of the land transfers and exchanges that will be necessary in order to fully implement the Alaska Native Claims Settlement Act, or;

2. Specific enabling legislation for the Cook Inlet Exchange, or;

3. Specific enabling legislation for this exchange with subsequent general legislation.

Although specific enabling legislation for the Cook Inlet Exchange must surmount the constitutional hurdle posed by Article II, Section 19 of the Constitution which prohibits a local or special act if a general act can be made applicable, it would appear that specific enabling legislation to be followed by general enabling legislation is the only practicable course. Both factually and legally, the Cook Inlet Land Exchange is unique. The scope of the problem, the size of the exchange contemplated, the peculiar impact of concentrated selections on the Cook Inlet region, the time parimeters set on this exchange, and the actual and potential litigation make this a special situation. The subject is clearly a matter of statewide interest since highly important economic and planning values are involved and since implementation of the Native Claims Settlement Act is clearly of importance to the state. Further the unusual aspects here are significant and present an insurmountable barrier to action pursuant to a general statute. It would seem clear that under the tests in Boucher v. Engstrom, 528 P2 534 91 (Alaska 1974) and Abrams v. State, 534 P2 91 (Alaska 1975) carefully drawn enabling legislation for this specific transfer would be

upheld. General legislation involves very substantial policy decisions concerning the procedural mechanics by which such transactions will be allowed and consideration of the mechanics, if any, of legislative approval. It may very well be because of the unique nature of large transactions involved in implementing the Settlement Act the legislature may require specific approval by it of certain transfers.

Any specific legislation should (1) contain recitalsrelating to the Cook Inlet Land Trade and what the legislature intends to accomplish by approval of the land trade; (2) a specific waiver of the provision of AS 38.05.125 since this is clearly the major impediment existing currently; (3) a specific waiver of the equal value exchange requirement contained in AS 38.95.060. While arguably this equal value requirement would not apply in any event, the values on both sides of the transaction are of such nature that appraisals would be complex and subject to substantial dispute. For that reason waiver of the equal value requirement removes a cloud which is potentially significant and which could lead to litigation; (4) a general waiver clause of other provisions of law to make it clear that the legislature intends to waive any barriers to the consummation of the transaction.

This memorandum, of course, expresses no opinion as to whether it is desirable that the Cook Inlet Land Transfer be approved, but is intended to sketch the problems in existing law and steps that should be taken if the legislature elects to approve the transfer.

BGB:smh

Phil Holsworth

David Jackman
February 25, 1976

WHAT'S WRONG WITH THE COOK INLET LAND TRADE

Simply a bad deal for the state

For all its alleged complexity, the proposed Cook Inlet land trade is not that hard to understand. In return for 52 townships (approximately 1.2 million acres) of federal lands that are mostly remote and of questionable value, the state is giving the federal government 21.5 townships (approximately .5 million acres) of very valuable lands that the federal government will in turn use to solve two nettlesome federal problems:

1) The four-year dispute over the adequacy of the lands withdrawn by the Interior Department for the satisfaction of Cook Inlet Native Corporation's land selection rights; and

2) The need to get private ownership (in the form of pending Native corporate land selections) out of the Lake Clark area, so that the National Park Service will have a more salable national park proposal for the d-2 lands in that area.

The 21.5 townships the state is giving up are located on the Kenai peninsula (5 townships), in the Mat-Su Valley (3 townships), and in the Beluga area across northern Cook Inlet from Anchorage (13.5 townships). All of these areas are within zones very favorable for the occurrence of oil and gas, and the Beluga area is also a known coal area with reserves of immense proportions. All of these lands are low-lying and well-suited for future settlement. Furthermore, because they are located near the population centers of southcentral Alaska, they also have extremely high importance for recreation and public use by the common man who cannot afford to fly-in long distances.

The 52 townships the state will receive in exchange are for the most part quite remote, have little income producing potential, and are of relatively little value for either future settlement, the protection of state wildlife resources, or even public recreational use. Half of these lands (26 townships) are located in the Mulchatna river drainage northwest of Lake Iliamna. Another 7 townships are located in the adjacent Tutna Lake area approximately 25 miles west of Lake Clark.

Eleven townships will be adjacent to Kamishak Bay on the west coast of Cook Inlet, southwest of Augustine Island. There will also be 8 townships in the Talkeetna Mountains and the 4,000 acre Campbell tract in the Anchorage bowl.

There are many other aspects of this trade to be reviewed, but the basic inequality of the land values alone is enough to condemn it. To put it in perspective, consider one of the worst hypotheticals advanced by proponents of the trade: that Cook Inlet Inc. wins its law suit on appeal (it has already lost at the trial level), and that Interior is also ordered to break its 1972 agreement with the state and make state selected lands available for Cook Inlet's regional selections. Cook Inlet is due to receive approximately 54 townships total. At least 20-30 townships presently withdrawn from federal lands are probably acceptable to Cook Inlet region. Therefore, at most, 24-34 additional townships would then be made available from remote, generally lower-value state-selected lands, either in the area across the Alaska Range toward the Stony River country or northwest of the Susitna valley toward Denali.

According to any scale of values these 24-34 townships would be worth far less than the 21.5 townships the state plans to give up in the proposed trade. It is worth re-emphasizing that we would be less out-of-pocket with this "worst hypothetical" than with the proposed trade, and even the advocates of the trade place the likelihood of this hypothetical at less than 20 percent.

The Campbell Tract

In contrast with the other lands to come to the state, the 4,000 acre Campbell tract in the heart of the Anchorage bowl is valuable land of the first order. But even this benefit is more apparent than real because either the state or borough was almost certain to get this tract anyway, and in any event it had clearly been placed off limits for Native selection by the federal government. So here as elsewhere throughout this trade we are getting lands we would likely get anyway, and protecting public interests that were already protected.

Even advocates of the trade concede that the state "would stand a respectable chance of obtaining the (Campbell tract) lands at some time in the future" under the federal Recreation and Public Purposes Act. High sources within the Interior Department emphasize that this was almost certainly to be so. These same sources also stated that in earlier discussions between the Interior Department and Cook Inlet Region, Interior announced its firm opposition to this tract being made available for Native selection. The only Anchorage-area tracts that

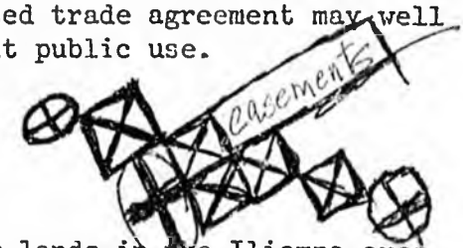
Interior seriously considered letting the Natives select were Fire Island and surplus lands from Fort Richardson, and these may well still go to Native ownership under the trade agreement.

Much of the Campbell tract was further protected from any possibility of Native selection by the two-mile buffer zone in Section 22(1) of the Settlement Act. Finally, there is every indication that the federal government intended to keep this tract in public open space use because of its importance as a watershed and recreational area. So about all the state "gained" here was the administrative expense and the "pride of ownership".

A Cloud Over the North-South Runway

Another much-touted plus of the proposed trade agreement is that it will insure the early transfer of the Point Woronzof, Point Campbell and Goose Lake tracts to the state. In the words of the agreement, "such lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes...." But this language creates a new problem in view of the importance of the Woronzof tract for the proposed north-south runway at the Anchorage airport.

Without this agreement the state or borough was still very likely to get most of these tracts under the Recreation and Public Purposes Act. The terms of that Act are broad enough to permit a "public purpose" such as an airport runway. The more restrictive language regarding "park and recreation purposes" in the proposed trade agreement may well have the effect of blocking such an important public use.



No Special Protection for Fisheries

The importance for the state of getting lands in the Iliamna area has been tied by the advocates of the trade to the protection of Bristol Bay fishery values. Presumably this extra protection would occur through state ownership of the upland drainages adjacent to important spawning streams. So far so good.

However, under the actual terms of the trade, the state will not get a single acre within the Iliamna Lake watershed which is the key salmon producer for the Bristol Bay fishery. The lands the state does receive are in the upper Mulchatna River drainage, an area of very minor importance for the Bristol Bay fisheries.

With or without the proposed trade, the State will have an opportunity, recognized in Section 17(d) of the 1971 Settlement Act, to select lands in the Iliamna drainage within the Bristol Bay village withdrawals after

Native selections are completed. Furthermore, the fishery values of public lands in that area are perfectly well protected with the lands in federal ownership, and nothing significant is gained by transferring them to state ownership. Add to this fact the existence of state regulatory tools such as the Anadromous Fish Stream Act which can be used to protect fisheries habitats.

Out-of-Region Selection Rights

Under the proposed trade agreement, Cook Inlet Region will have an additional three years to identify and select approximately 30 townships of land from available federal lands outside the region. They are prohibited by the agreement from selecting any lands the Federal Government wants, such as d-1 or d-2 lands included in the Secretary's park, refuge, and forest proposals, or any of the d-1 buffer lands around these areas called "zones of ecological concern". This will throw Cook Inlet into those lands that would otherwise be prime candidate areas for State selection. Cook Inlet Region will have the opportunity to take the best available lands from a resource utilization standpoint.

The out-of-region selections constitute a loss to the State because these are lands that otherwise would have been available for State selection. (Approximately 35 million acres of land remain to be selected out of the Statehood Act grant of 103.5 million acres.) Cook Inlet will be looking for the same kind of income-producing resource lands or other valuable lands that would be high on the list for State selection. With respect to the millions of acres that could be nominated under this procedure, there will be a freeze on the processing of any State selections for three years.

Thirty townships broken up in isolated private tracts will create the same kind of land management problems outside Cook Inlet Region that it was the partial purpose of this trade to avoid within this region. So in order to consolidate ownership in the Cook Inlet area, we are furthering a fragmented land pattern elsewhere in the state.

Impact on the Proposed Lake Clark National Park

This trade will make it difficult for the State to ever oppose the establishment of a National Park or other area managed by the National Park Service in the Lake Clark area. The proposal would result in the return of certain key lands around Lake Clark to federal control, and would prevent further Native selections in this area. In the agreement, the Secretary, Cook Inlet Native Corporation, and the State all acknowledge that there are nationally significant resources in the Lake

Clark area, and that the "scenic, recreational and inspirational resources of this area should be preserved." "Nationally significant" is a catch phrase applying to d-2 lands indicating that they should be permanently preserved in federal park or refuge status. Nothing is said of the significant mineral resources in the Lake Clark area.

By the express terms of the agreement, Cook Inlet Native Corporation is bound to publicly support the establishment of such a National Park Service management unit around Lake Clark. There are three other national parks either existing or proposed for the Alaska Range: Wrangell Mountains, Mt. McKinley and Katmai; many view the proposed Lake Clark National Park as a far less justifiable fourth proposal.

Impact on the Kenai National Moose Range

Much of what the conservationists might view as net gains in the Lake Clark area under the proposed trade, they lose in the Kenai Moose Range. Cook Inlet Native Corporation will receive full ownership of 16 sections of key public use lands in the Lake Tustemena area. There will be some restrictions on waterfront development, but basically, these will be private lands. Elsewhere in the Moose Range, Cook Inlet will receive full rights to oil, gas and coal under another 9.5 townships of land.

Why was it necessary for any lands to come out of the Moose Range? In earlier settlement negotiations between Cook Inlet and the Interior Department, before Cook Inlet lost its suit at the trial court level, some lands were offered from the Moose Range. However, this so-called "Frizzel offer" was withdrawn and never re-offered. The legal authority of the Interior Department to ever offer the Moose Range for Native regional selections without Congressional authorization was then and is still seriously questioned. Under the proposed trade the loss of these lands to private ownership in this important recreational area, so heavily used by the Kenai and Anchorage area people, will be irreplaceable.

In-region Selection Pool of Surplus Federal Lands

The Secretary of the Interior, working with the General Services Administration is obligated to try to find 138,240 acres (6 townships) or acre equivalents (in terms of appraised land values figured at $500 an acre) of land within Cook Inlet region made up of odd federal tracts such as lapsed homestead entries, surplus federal lands, or revoked federal reserves. These lands would then be made available for selection by Cook Inlet Region using some of the 30 townships of out-of-region entitlement, and also made available for land exchanges with villages to trade them out of proposed National Park lands on the west side of Cook Inlet.

Some of the federal lands to be included in this pool, without this agreement, would be available for State selection under the 90-day preference right guaranteed in the Statehood Act. These are potentially very valuable lands, and could include tracts such as Fire Island and surplus lands at Fort Richardson. The $500/acre equivalent formula agreed on in the proposal would imply total land values for this 6 township pool of over $69 million, and the State would have the right to veto only 1,500 acres from this pool.

Disposal Without Planning or Classification

As the agreement is written the state does not know exactly what lands will go to Cook Inlet Corporation on the Kenai or in the Mat-Su Valley. The specific lands are to be identified over the next eighteen months "to the extent possible by mutual agreement" from five selection pools: the Point McKenzie pool, the Knik-Willow pool, the Kashwitna pool, the Chickaloon pool, and the Kenai pool. If the state and the Natives cannot agree, then the state identifies one and a half times their entitlement, and Cook Inlet chooses.

This process of mutual agreement may work very well or it may break down completely. It is impossible to know now. In either event eighteen months is hardly adequate time to complete the kind of land use planning and classification process that would normally preceed the disposal of such large tracts into private ownership. Private ownership of more land in these areas may make good sense, but the state is losing most of its ability to determine what specific tracts are best suited for private development in terms of local government needs, public services, and provision for recreation and open space lands. It is true that local zoning could serve as a stopgap, but it can never be as effective as a wise and carefully thought out disposal policy.

Swanson River Oil Revenues

Without this proposed agreement, there is some chance that either an administrative or a legislative settlement arrived at by the Federal Government alone might give Swanson River oil revenues to Cook Inlet Region. At present, the State receives 90 percent of these royalty revenues although there is a recent opinion of the U.S. Comptroller General challenging the right of the State to these revenues.

Under this Comptroller General's opinion, the State may lose Swanson River revenues anyway unless the State is successful in legally overturning this opinion. Also, in the absence of a finding by the Secretary that these lands are no longer necessary for the Moose Range, federal legislative action would probably be required to give these subsurface benefits to Cook Inlet Region.

Serious Breach of Public Trust

Aside from its citizens, this state's public land is its most basic asset. It should go without saying that both the legislative and the executive branches should use the highest standard of care in managing or disposing of this land patrimony.

The only standard that presently exists in state law against which land trades can be measured is equal value. This legal standard has always been viewed in the past as meaning equal appraised dollar values. Where this was not possible a cash equalizer was permitted.

Even if we now allow this equal value test to be broadened into a public benefit versus public cost analysis, there has been no such rigorous and complete cost-benefit comparison offered by the administration that can meet even such a liberalized test. Thus we are asked to discard the only standard that presently exists in state law, and to rely on the individual judgement of one or two administrators. To borrow Governor Hammond's analogy of Alaska, Inc., the Cook Inlet trade appears to constitute an unwarranted dissipation of corporate assets.

Better Alternatives Are Still Available

It is simply not true that this agreement must be approved if Cook Inlet is to have a satisfactory resolution of its land selection problems. The federal legislation that authorized the Interior Department's participation in the trade recognized that the parties might not be able to finally agree, and provided full protection for Cook Inlet's selection rights in that event.

This Act requires the Secretary to report to Congress by April 15th of this year on the implementation of this agreement. If there is no agreement at that time, the Secretary must until the end of 1976 hold on to those federal lands that would have gone to Cook Inlet Corporation so that Congress can consider an alternative solution. All of Cook Inlet's original selection rights would be restored, and they would continue to pursue the appeal of their law suit.

The simplest alternative to the proposed trade would be for Interior to simply withdraw additional d-1 and d-2 federal land within Cook Inlet region for Native selection. This would require neither legislation nor a single acre of state land.

A second quite simple alternative is suggested by the proposed trade agreement. Since 30 townships of out-of-region selection rights have already been approved by Congress as a part of this trade, Congress could

pass a two-sentence amendment simply directing the Secretary to specifically withdraw up to 90 townships from within these same d-1 land areas outside the region as an additional deficiency area for Cook Inlet's regional selections. The other regions have already accepted this concept in the present trade, and by requiring the selection area to be identified and narrowed down, state selections would not be frozen over so broad an area.

Conclusion

It is now up to the state legislature to either approve or disapprove this proposed trade. If they choose not to approve it, they may well decide to suggest an alternative that would throw it back into federal hands. Whatever course is taken they must eventually decide the larger issue concerning standards and procedures to govern such trades in the future if the public interest is to be adequately protected.

1

Alaska State Legislature

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WHILE IN JUNEAU
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Senate

February 23, 1976

Mr. Burton Silcock, Federal Co-Chairman
Federal/State Land Use Planning Commission
733 West Fourth Avenue, Suite 400
Anchorage, Alaska 99501

Re: Cook Inlet Land Trade

Dear Mr. Silcock:

During hearings in Anchorage, and again in Juneau, on the above referenced matter, the State Co-Chairman was informally requested to supply the Legislature with its opinion concerning the various facets of the trade.

Please regard this as the Senate Resources Committee's formal request for the assistance of the FSLUPC in whatever manner the Commission deems appropriate.

At the very least, we are concerned with relative values of lands given and received, and the impact of such intervention by the State on future land selections by the State under the terms of the Statehood Act and the Alaska Native Claims Settlement Act. Additionally, we are very much concerned about the long term effects of the seemingly arbitrary and unnecessary amendment of Section 6(i) of the Statehood Act.

As you know, on February 16, I requested Governor Hammond to assist in receiving a 30 day extension of the March 12 deadline imposed on the Legislature, so that the Commission could properly prepare its report. His letter of February 20 stating his inability to do so is attached for your reference, as is mine of the 16th.

We understand that you have compressed your schedule to accomodate our demands upon you, and that the Commission will meet in Anchorage on the 5th and 6th of March. I should like to attend that meeting, together with some members of my Committee and, possibly, participate through questions intended to clarify for us the Commission's findings.

Please, also accept my sincere thanks for your concern and assistance to the Legislature in its attempts to reach a reasoned decision.

We have not yet been advised as to who is acting Co-Chairman for the State. Please convey the above sentiments to that person when the name is made known to you.

Sincerely,

Kay Poland

Kay Poland
State Senator
Kodiak-Aleutian District

KP:ss

CC: Governor Jay S. Hammond
Senator Chancy Croft, Senate President
Representative Mike Bradner, Speaker of the House
Representative Terry Gardiner, Chairman, House Judiciary

Alaska Conservation Society

Incorporated in 1960

Box 80192 College, Alaska 99701

STATEMENT: COOK INLET LAND TRADE
February 23, 1976

The Alaska Conservation Society wishes to reiterate and to take the same position in this matter as that of the Upper Cook Inlet Chapter dated February 7, 1976.

The Alaska Conservation Society supports totally the concept of trading lands to facilitate rational ownership patterns and management. Federal, State, Native and other landowners have different goals as owners and managers of Alaska's land. It is, therefore, reasonable and laudable to negotiate trades which on balance, benefit all parties concerned.

We are thankful that the State Administration perceived the need for a land trade in the Cook Inlet Region and devoted so much energy to the settlement. We are pleased that Congress saw fit to act quickly in support of the trade; thus placing their trust in Alaskan negotiators familiar with the Cook Inlet land situation.

We are equally appreciative that members of the Legislature have taken interest in the trade. It gives us faith in the checks and balances of government, however, we feel that the energies of detractors of the Cook Inlet trade are misplaced.

In early October, 1975 when the State Administration first announced the conditions of the trade, the time allowed for public input appeared ludicrously short. However, since then the public has had ample opportunity to consider the proposal and the trade has been altered as a result of public input. The land trade approved by Congress is favorable to state interests and we urge the Legislature to lend its support to that final agreement.

A discussion of specifics follows: It is our feeling that the Kenai Moose Range should be held substantially intact. To the extent that pieces of the Moose Range are traded to the Cook Inlet Natives, those pieces should be located on the edge of the Range, away from prime

wildlife habitat. Further, we hope that this is the last time the Moose Range's borders are tampered with -- reducing the size of the Range. We will urge the Federal government to protect the canoe system from development and to designate eligible parts of the Range as wilderness. We find the Cook Inlet land trade in keeping with our interests in the Kenai Moose Range, although we regret that it was necessary for the Federal government to trade away any portion of the Range. It is one of the most heavily used outdoor recreation areas in the state.

The townships the State will pick up in the Talkeetna Mountains are critical additions to the proposed Talkeetna Mountain State Park. The Upper Cook Inlet Chapter of the ACS and the Alaska Conservation Society itself are on record as supporting strongly this park proposal.

We are happy that Campbell Airstrip, Point Woronzof, Point Campbell and Goose Lake will all be retained in public ownership. We are particularly pleased that Congressional action has tied conveyance of the Campbell Airstrip tract to the plan for a Far North Bicentennial Park.

We will be watching the development of the implementation of the "selection pool" mentioned in I.C.2(a) (pg. 39-40) of the agreement document. Important potential park and open space acreage on the Anchorage hillside may be declared "federal surplus" property and we intend to keep an eye on any conveyance of such critical acreage from public to private ownership. We realize this section cannot be changed and we certainly do not feel it is reasonable to stop the whole land trade because of it, but we would like to call it to the attention of the Committees. We can only hope that when this "pool" is selected, it will be done openly and publically allowing the State and Municipality to object. The particular lands we are concerned about are those of the Anchorage military bases, especially Fort Richardson, which could be included in this selection pool by reduction of that federal installation. Much of this acreage is located adjacent to the Campbell tract in the Muldoon area, close to the Chugach State Park. We see these lands as critical to the Anchorage area for open space, but more importantly, as water recharge area for the city. To have this area go into private ownership and possibly development, would be poor land use planning. We do not know that this would happen, but can see this as a possible complication of the land trade later on.

We are hopeful that the land trade will ultimately lead to State management of the Iliamna watershed, a region of extreme value as fish habitat. Moreover, we support Federal ownership of the lands around Lake Clark, an area deserving of protection for its value as recreation land. It appears that by reducing Native land ownership in the Lake Clark-Lake Iliamna region, the State and Federal governments are moving closerto a workable management plan for that portion of the state.

Finally, let us consider the Beluga coal fields. Here the State has retained the lands of highest value for coal production, but nonetheless has given up many acres of potentially rich energy resource lands. It is time the State looked beyond how many dollars worth of nonreneweable resources we control. It is obvious that the State had to give something of value in order to receive valuable renewable resource lands, including the possibility of gaining control of extremely valuable fish and wildlife habitat around Iliamna.

What the state is giving up in revenue might very well have accrued to the tax-payers of one generation. What it is gaining is control of renewable resources that will benefit many generations of state citizens. It seems that the Beluga fields are a reasonable loss for what the state will gain, including retention of revenue from the Moose Range oil fields.

In conclusion, the Alaska Conservation Society <u>supports</u> the Cook Inlet Land Trade. We urge the Legislature to do the same. We wish to thank the committees for holding these hearings and allowing the public to express their views.

*****for further information please contact Tina Stonorov, Executive Secretary, Alaska Conservation Society, Box 80192, College, Alaska 99701 - 452-2240 (in Fairbanks).

COOK INLET LAND TRADE PROPOSAL

This proposal is fairly complicated as a result of the existing land ownership patterns within the Cook Inlet Basin, the individual interests of the three parties concerned, and the legal constraints of the Alaska Native Claims Settlement Act (ANCSA). Additionally, the parties felt it imperative to deal with several closely associated issues such as ANCSA land selections by certain villages within the Cook Inlet Region. The various aspects of the tentative proposal are outlined below in conjunction with the attached map. The reader must realize that this is a simplified, capsulized summary and that persons wanting more information are requested to contact the Alaska Division of Lands in Anchorage.

TABLE 1.

COOK INLET LAND TRADE PROPOSAL

PARTIES	LAND TRADED LOCATION	AMOUNT	MAP NO.*	COMMENTS
State to Cook Inlet Region, Inc.	Kenai Penn.	5 Twps.**	1	These are lands suitable for pvt. ownership and development where settlement has occurred or will occur in the future.
	Beluga Area	12 Twps.	2	
	Scattered Tracts (Matanuska & Susitna Valleys)	1.2 Twps.	3 a-d	
	Total	18.2 Twps.		
State to Villages or Certified Native Groups	Montana Ck.	.5 Twp.	3d	More suitable lands for pvt. ownership and to prevent native selection of key Kashwitna River lands in proposed state park.
	Caswell Ck.	.5 Twp.	3d	
	Salamatof Area	.5 Twp.	4	"Out of court" offer to drop village eligibility suit which threatens loss of a total of 4 twps. from state and Moose Range lands.
	Alexander Ck. Area	.5 Twp.	5	"Out of court" offer to drop eligibility appeal which threatens lands in Lake Clark area and the west side of Cook Inlet that are of interest to the State.

* See Attached Map for area location

** "Twp" = "Township" = 36 Sections = 23,040 acres

COOK INLET LAND TRADE PROPOSAL

PARTIES	LAND TRADED LOCATION	AMOUNT	MAP NO.*	COMMENTS
	Tyonek Area	<.5 Tv	2	Lands offered to Tyonek to reduce to a minimum Tyonek ownership of land within the Kenai National Moose Range.
	Knik Area	.21 Twps.	3a	More suitable lands near villages in return for public ownership of important lands selected by these villages on Lake Clark.
	Chickaloon Area	.08 Twps.	3c	
	Total	2.8 Twps.		
Cook Inlet, Inc. to State	Talkeetna Mtns. Lake Clark west side of Cook Inlet	31 Twps.	6 a-f	State will designate which twps. from a total pool of approximately 180 twps. from which Cook Inlet, Inc. may select.
Villages and Groups to State	Montana Ck.	.5 Twp.	6 a	State receives lands selected by these groups within proposed Talkeetna Mtns. State Park.
	Caswell Ck.	.5 Twp.	6 a	
	Tyonek	<.5 Twp.	7	State receives lands selected by Tyonek on Kenai Penn. within or on edge of National Moose Range.
	Knik	.85 Twp.	6 e	State receives these lands on shores of Lake Clark.
	Chickaloon	.32	6 e	
	Total	2.7 Twps.		
Federal Gov't. to Cook Inlet	Kenai Nat'l. Moose Range	.87 Twps (20,000 ac.)	8	Moose Range boundary to be adjusted to exclude these lands; a 1/4 mi. "no development zone" on edge of Tustamena Lake.
	Kenai Nat'l. Moose Range	.87 Twps (20,000 ac.)	9	Lands to be within Moose Range and subject to restrictions such that any use of the land must be beneficial to the purposes of the Moose Range.

* See Attached Map for area location
** "Twp" = "Township" = 36 Sections = 23,040 acres

COOK INLET LAND TRADE PROPOSAL

PARTIES	LAND TRADED LOCATION	AMOUNT	MAP NO.*	COMMENTS
Cook Inlet to Villages	Salamatof	1.5 Twps.	6f	"Out of court" offer to Salamatof to drop village eligibility suit which, if successful, would significantly reduce Cook Inlet's land within National Moose Range.
	Knik Area	.21 Twps.	3 a	More suitable lands near villages to ensure public ownership of important lands selected by these villages on Lake Clark.
	Chickaloon Area	.08 Twps.	3 c	

MISCELLANEOUS

The proposal does not convey to Cook Inlet, Inc.:

1) Subsurface resources in any producing oil and gas fields (e.g. Swanson River).

2) Any of the Swanson River canoe system lands.

3) The Russian River area

4) The present federal lands at Point Woronzoff, Point Campbell or the Campbell Tract.

Guy Martin

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 5, 1976

MEMORANDUM:

TO: Commission

FROM: Dr. Bradford H. Tuck, Economic Analyst

SUBJECT: Cook Inlet Land Trade: Some Economic Considerations

I. Introduction

Recent discussions surrounding the Cook Inlet land trade, including those presented in various testimony, in the newspapers, and in discussions at the Commission have raised a variety of economic issues. Many of these are related to a major concern of all parties, namely, that the lands involved including resources, are of equal value. A variety of State and Federal statutes require some treatment of the equal value issue in land trades, and Cook Inlet Region, Inc. is of course interested that it receives at least equal value. However, none of the statutes are explicit about how value is to be determined.

When the magnitude of the trade is taken into account and uncertainty surrounding lands and resources involved in the Cook Inlet trade are considered, the problems of determining equal value are extreme. Ordinary valuation procedures are simply inadequate.

The Commission must decide whether or not the trade meets standards implicit in the ANCSA; specifically that its recommendations are conducive to enhanced land use planning for Alaska and that its recommendations are designed to:

> "insure that economic growth and development is orderly, planned and compatible with State and national environmental objectives, the public interest in the public lands, parks, forests, and wildlife refuges in Alaska, and the economic and social well-being of the Native people and other residents of Alaska."

The State must also apply broad economic standards in attempting to evaluate the trade. Three major questions of economic significance should be addressed.

1. What, in real economic measures, is the State either gaining or losing in the trade?

2. What impact does the trade have on the future fiscal viability of the State?

3. What consequences does the trade have with respect to the future general economic well-being of the State?

An analysis of these issues and questions, and not a parcel by parcel evaluation, must be the basis for measuring the economic values of the trade.

II. Summary and Conclusions

A variety of issues of economic significance have been explored in relation to the proposed land trade. The conclusions can be summarized as follows.

1. Because of the complexities of the trade and the very real difficulties in applying ordinary valuation methods, broad economic standards must be used in judging the trade. These standards must include the Commissison's mandate to make recommendations relating to orderly economic growth compatible with other social, cultural, and environmental values. The standards must also include an assessment of the impact of the trade or the future fiscal and economic viability of Alaska.

2. The economic losses that the State will purportedly incur as a result of the trade are generally found to be highly exaggerated. When highly speculative gross asset values are converted to "net present value" of possible foregone revenues, the State's probable losses are minimal. In short, little, if anything of economic consequence, is lost.

3. The future fiscal viability of the State is largely unaffected by the trade. This is so for a variety of reasons, including the fact that the State power of taxation can effectively recoup possible economic rents given up in the trade. Also, the probable foregone revenues would constitute only a minute fraction of total State revenues.

4. The net effect of the trade on total economic activity is quite limited, and in any case, the bias would be toward increased activity. This is based on the assumption that CIRI is at least as economically development oriented as the State.

III. The Problem of "Equal Value"

Value can be determined (at least theoretically) in a variety of ways, but for present discussion purposes, there are two methods that are of particular interest. The first of these relates to determining value on the basis of market comparisons or other transactions of a similar nature, and the second approach attempts to find a present value of some kind of expected future income from the lands and resources involved. The concepts are not mutually exclusive, but can be treated separately.

The market comparison approach is one frequently used in appraisals. The basic idea is to find other transactions of "like kind and character" which reflect what the present market is willing to pay for a particular parcel. When one attempts to apply this method to an evaluation of the Cook Inlet trade, many serious flaws emerge. The first is, quite simply, that the magnitude of the land parcels involved in almost all cases dwarfs anything that typically trades in the private sector. In other words, there are no comparable trades. Hence, we must look at much smaller parcels and then estimate what the effect of a significant increase in the quantity of land would have on the market clearing price, and this involves, in turn, some estimate of the rate of disposal of the lands and resources.

A second major problem in the present situation is that in most instances both surface and subsurface property rights are involved. While the surface resources are known to some degree, knowledge of the subsurface is much more limited. Thus, a high level of uncertainty surrounds any attempt at evaluating the subsurface resources. Even if subsurface resources were known, major problems in valuing these resources would exist. Specifically, we would have to know the net income stream that could be derived from the resource. At best, such estimates are highly speculative.

A much more fundamental problem with market comparison valuation lies in the theoretical underpinnings of this method. In essence, valuation by market comparison rests on the assumptions of pure competition; a large number of buyers and sellers, none of which is sufficiently large to effect the market price, and freedom of entry and exit from the market by all interested parties. If these conditions are not met, then the result is bargaining between parties holding some degree of monopoly control over the market and, as a consequence, over the resulting price. A price, or value, determined under these conditions does not necessarily reflect the "socially desirable" market clearing price that is the basis for market comparison valuation.

In the present trade we are faced with a situation in which the sheer magnitude of the lands involved (even with full knowledge of the quality of the lands and resources) means that no valid market comparisons exist. Both in terms of the size of the trade and the limited number of parties involved, the setting is one that closely parallels an oligopolistic bargaining situation. It is highly unlikely that the three-party valuation of the trade would be anything like that which would emerge on the basis of competitive market forces.

With these reservations in mind, it is interesting to look at some rough attempts at valuation of the trade. A somewhat cursory attempt at placing market comparison values on the State lands involved in the trade was carried out by the State Division of Lands. Using their data, and supplementary guesses where necessary, Table 1 was constructed. The assumptions underlying the table are set out in the notes to the table, but in general, only surface values are considered. In one instance (the Beluga area) discounted coal royalties are included, and in one other instance (Campbell tract) sand and gravel values are included in one case.

It is clear from inspection of the information in the table that the net value of the trade is highly sensitive to certain assumptions. Using value per acre figures that would find some support in at least some quarters in all instances, the State either gains, loses, or emerges in a neutral position, depending upon which set of assumptions one wishes to use. A recent suit filed in which it is claimed that the State is losing 285.7 million dollars in the trade (surface estate only) is a further indication that the problem of determining value (in the appraisal sense) is great.

A second approach to the valuation of lands or resources is based on the capitalization of expected net income flows resulting from the lands and resources involved. The problems associated with this approach also present serious obstacles to accurate valuation of the present trade. In general, two key variables, the "net income stream" and the "discount" rate are involved.

From the State's perspective, the net income flows from the lands and resources involved may take the form of sales revenue, leases, bonus payments, rentals, royalties, severance taxes, property taxes, etc. In some cases there may also be personal and corporate income taxes that might otherwise not occur. From these revenues must be subtracted the administrative costs of managing and disposing of the lands and resources involved to obtain the net income stream. Thus, the revenues to the State depend on a complex set of policy considerations relating to the disposition of State lands and resources as well as the timing of this disposition, and on a whole

TABLE 1

Sensitivity of "Equal Valuation" Considerations to Per Acre Valuations,
Cook Inlet Land Trade, State Lands

Area Lands to State	Acres (000)	[1]Valuation, State $/Acre	Total (mil$)	Modified Valuation[4] "Unfavorable" $/Acre	Total (mil$)	Modified Valuation[5] "Favorable" $/Acre	Total (mil$)
Nushagak Chulitna	) 599.04)	40	24.0	30	17.97	120	71.88
Sheep Creek	23.04	40	0.9	30	0.69	120	2.76
Sheep Creek	69.12	40	2.8	30	2.07	120	8.29
Campbell Tract	4.00	1501	5.9	1000	4.00	1000	16.00
Pt. Woronzof	0.59	5598	6.6	1000	0.59	1000	0.59
Pt. Campbell	1.18	7083	4.2	1000	1.18	1000	1.18
Tutna Lake	161.28	40	6.5	30	4.84	120	19.35
Chunilna	23.04	40	0.9	30	0.69	120	2.76
Talkeetna River	69.12	40	2.8	30	2.07	120	8.29
Kokhetna Susitna	285.70	40	11.4	30	8.57	120	34.28
Kamishak Bay	299.52	40	12.0	30	8.99	120	35.94
TOTAL	1535.63		$78.0		$51.66		$201.32
Lands From State							
Pt. Mackenzie	3.20	200	0.640	667	2.13	667	2.13
Knik-Willow	4.48	300	1.344	1000	4.48	1000	4.48
Kashwitna	38.40	250	9.600	500	19.20	500	19.20
Chickaloon	4.80	125	0.600	300	1.44	300	1.44
Kenai	115.20	150	17.280	450	51.84	450	51.84
Beluga, Nikolai[2]	311.04	70	38.872	100	48.20	100	48.20
Misc. Lands to Villages[3]	41.47	225	9.331	300	12.44	300	12.44
TOTAL	518.59		$77.667		$139.73		$139.73
NET TOTAL (To-From)			+0.333		-88.07		+61.59

Source: See Notes.

Notes:

1. Valuation based on information contained in a memorandum from Michael C.T. Smith to Guy Martin, dated December 6, 1975, and in supporting materials for memorandum.

2. Includes 15.9 million for [illegible] royalties and revenues foregone, and 1.2 million dollars of foregone timber values. Both numbers are present value figures.

3. Informed guess.

4. Assumes; "$40" land is actually worth $30 per acre; that restriction on use of Campbell Tract, Point Woronzof, and Point Campbell (for recreation, etc.) reduce value to $1,000 per acre; and that lands relinquished by the State are revalued upwards as indicated. While there is no particular basis for assuming these figures, they are not out of keeping with general observations on land prices in the respective areas, and the probable impact that relocation of the capital might have.

5. Assumes that the values for lands relinquished by the State remain as in note 4, but that the value of lands received by the State is $120 per acre instead of $30, and that sand and gravel sales from development of Campbell Tract (at 12 million dollars) are included. Gravel sales are restricted to the development of Campbell Tract for recreation purposes only. Data based on Division of Lands information.

set of future economic conditions which in general have neither been predicted nor in any sense are knowable at present. Some truly Herculean assumptions would be necessary to even begin to estimate either the magnitude or the timing of the net income stream that the State is either giving up or obtaining in the trade.

A further problem exists in the case of public resources in attempting to estimate net income. It is one of attempting to assign dollar values to nonmonetary flows of services such as those derived from recreational use of the lands. For example, the Campbell tract if restricted to park and recreation uses might be expected, at the outside, to yield an annual income of perhaps $100,000 net. If we capitalize this income stream, in perpetuity, at 5 percent then the tract is theoretically worth 2 million dollars, or about $500 per acre. I suspect that many people would place a substantially higher valuation on the tract precisely because the land is restricted to park and recreation purposes. Or, for example, how does one place a dollar value on the preservation of fisheries habitat? In other words, there are real problems with setting dollar values on many of the benefits associated with public lands.

The problems that Cook Inlet Region, Inc. and the Federal government face are similar, although in the case of Cook Inlet, the subjective valuations (aside from uncertainty due to imperfect knowledge) are of a different nature given the private identity of the corporation.

To compare net income streams they must somehow be capitalized or discounted to obtain comparable present values. Thus, a second major consideration in this approach to valuation is the choice of discount or capitalization rates.

The present value of income received far in the future is highly sensitive to the particular discount rate selected. For example, $100 received 50 years in the future has a present value of $8.72 if the discount rate is 5 percent, while the value of $100, 50 years in the future, is only $2.13 if the discount rate is 8 percent. Alternatively, the capitalized value of a perpetual income stream of $100 is $2,000 at a 5 percent capitalization rate, but only $1,250 at an 8 percent rate. The point is simple; the value of future income or the capitalized value of a future stream of income, is highly sensitive to the discount or capitalization rate used. When this is combined with the highly speculative nature of future net income streams, either public or private, any attempt to estimate value is subject to extreme error.

The discussion of the issue of "equal value" can be summarized as follows. A serious problem arises as soon as we attempt to determine value on the land and resources involved in the trade. The

magnitude of the tracts involved, and the uncertainties as to the kinds and qualities of the lands and resources involved, as well as the uncertainties related to future income anticipated, make standard valuation techniques inappropriate. In short, if the concept of equal value is to have real meaning in the analysis of the present trade it must be based on broader economic concepts than those set out above.

IV. What is the Economic "Loss" to the State?

There currently are many numbers being mentioned purporting to show various values that the State is losing in the trade. In a suit filed by Galliett and Lewis, asking for a permanent injunction against the trade, the net loss to Alaskan citizens is estimated to exceed 5 billion dollars in present value. Figures prepared by the Bureau of Mines, which you have, indicate that about 2.0 billion dollars of potential royalty income to the State will be foregone. Another figure points to roughly 90 million dollars of potential agriculture and forest land values that will be lost by the State. A detailed critique of these and other numbers goes beyond the scope of this memorandum, but certain points should be made.

The most important point is that generally the losses are grossly exaggerated. What the State stands to lose (and the same standard applies to what it might gain) is the present value of revenues that it would derive from the disposition of the lands and resources that it would not otherwise derive, minus the associated costs of managing and disposing of the lands and resources.

In each of the above cases, it is implicitly assumed that every acre and every resource, be it known, inferred, or hypothesized, is going to be sold, leased, extracted, or in some other way converted into revenue going to the State. Such an assumption is simply in error. Clearly only a small fraction of land that the State is giving up in the trade would have gone into private ownership or in some other way generated revenue for the State. Even with substantial population growth in the State, market demand will not exist in sufficient magnitude to absorb the vast quantities of acreages being discussed.

In a period of rising land prices past history must be interpreted with caution, but it is instructive to take note of the history of land disposition in the State. It is generally recognized that revenue was only one of several forces influencing land disposal. Much of the pressure was, in fact, counter to the revenue objective, inspired as it was by the desire to obtain "cheap" land. Presently proposed legislation to create "homestead" land is indicative of a continuing sentiment that revenue is not the only concern in the disposal of land.

A second consideration is that, for example, during the years 1972-74, land disposal revenues to the State ranged between 1.5 and 3.0 million dollars per year. This is hardly a significant source of revenue. Furthermore, disposal of lands, particularly when random settlement and development is the result, probably generates costs to the State far in excess of the revenues received.

For similar reasons, it is highly unlikely that the State would or could market every last acre of timber resource that has been identified in the trade, nor is it probable that the State could convert all of the lands with agricultural potential that have been identified into some form of revenue. In other words, the gross value of the surface estate is a far cry from future income streams that the State might derive from these lands.

It was pointed out earlier that the relevant economic value to the State is the present value of the revenues, not their nominal value some generations in the future. This clearly further reduces any hypothetical loss to the State.

Similar remarks apply to the subsurface resources. The assumption that all of the known, inferred, and hypothesized deposits or resources will be developed, even with the time frame suggested, is at best rank speculation. There is, firstly, a real question as to whether some (or perhaps any) of these resources will ever have commercial value. Secondly, it is entirely possible that, as a matter of State choice, the resources would not have been developed in any event.

It is meaningless to compare future gross royalties when no adjustment is made either for timing or for the uncertainty of the future revenues. It is a problem of adding apples and oranges. A common denominator is necessary and present value is the most frequently accepted means of making the comparison. For example, if the numbers prepared by the U.S. Bureau of Mines are discounted for both time and risk, the present value (1976) of all royalties estimated amounts to about 24 million dollars. This is a far cry from the several billion dollars that might be inferred from the tables. While the choice of risk factors and timing are arbitrary, a wide range of factors will result in present value amounting to millions, not billions of dollars.

A more concrete example of what present coal prospects look like is available. According to the Alaska Scouting Service, a huge coal complex is planned for the Beluga area. Informed sources place annual production at an average of 5 million tons per year, at a royalty of $0.30 per ton. Thus the revenue amounts to 1.5 million dollars per year. Assuming that production begins four

years from now, and lasts for thirty years, the present value of the royalty (discounted at 8 percent) is about 12 million dollars. It might also be pointed out that the project is still in the planning stage and there is no guarantee that production will ever take place.

There is another point that needs to be made with respect to State "losses." This relates to the issue of income foregone by the State on resources traded off. Since economic rents are closely tied to this discussion, we should briefly define the concept. We can define economic rent as the revenue received from the sale of a resource minus the real economic cost of producing the resource (including a competitive rate of return on investment).

The importance of this concept is that economic rent is a "surplus" above and beyond that necessary to bring a resource into production, and that the economic rent is the only source of revenue from the resource that the State may acquire. In other words, only if economic rent is present will the State be able to impose any kind of royalty or tax on the resource. If the rent is not there, and the State attempts to impose a royalty, production will not take place.

Hence, the question of what the State gives up in the transfer of the resource is really a question of how much economic rent the State stands to loose. The answer varies according to the assumption one makes.

If we assume that the State uses its full power of taxation, then 100 percent of the economic rent can be returned to the State, and the State has given up nothing in the transfer of the resource to the private sector.

While the State is unlikely to do this, it is reasonable to expect that the State will be as successful at "capturing" rents from the private sector as it is in capturing them in its own negotiations. Under these assumptions, the State again has lost little or nothing.

In other words, while the State may give up ownership of the resource, it in no way gives up the ability to derive roughly the same revenue that it would have derived otherwise. Whether it chooses to do so or not is another matter.

V. The Issue of the State's Fiscal Viability

The second major economic question that should be addressed is "does the trade impair the future fiscal viability of the State?" The answer is almost certainly no.

Considerable insight into the question can be obtained in work done by ISEGR in the Man in the Arctic Program. In particular, they have developed an economic growth model for the State and have applied the model to an analysis of future economic conditions in the State. Various combinations of petroleum development rates and petroleum prices have been used, in conjunction with assumptions about State saving out of petroleum revenues, to estimate future economic and fiscal conditions.

For example, in 1990, under assumptions of limited petroleum development, with crude oil at $5 per barrel, the State is projected to have a general fund balance of 5.7 billion dollars, and petroleum sector revenues of 1.7 billion dollars. Under assumptions of maximum petroleum development, with oil at $7 per barrel, the general fund balance would be 9.6 billion dollars, and petroleum sector revenues for the year would be 4.0 billion dollars.

It is clear that over the near-term future of 20 to 30 years petroleum and petroleum related revenues are going to dominate State government revenues. Furthermore, barring total fiscal irresponsibility, the State should amass a general fund surplus running in the billions of dollars.

In short, revenues that the State might derive from the disposal of resources and lands given up in the trade would, at most, be inconsequential in the State's overall fiscal position.

Does the conclusion hold over the longer run? For a variety of reasons, the answer is probably yes. First, there are strong grounds for believing that significant additional amounts of oil and gas remain in Alaska to be discovered. Second, the growth of the economy over the next 20 to 30 years will result in substantial diversification of economic activity, with at least some decrease in the dependence of the economy on oil, per se. Finally, it should be pointed out that if the State applies its powers of taxation to the economic rents associated with resource development, it can, for all intents and purposes, recoup any revenues otherwise foregone in the trade.

To gain some perspective on the fiscal consequences of the trade, it is helpful to consider the following. Suppose that the total "loss" to the State is 6 billion dollars. This would amount to only about 48 million dollars per year over the roughly 125-year period during which the foregone revenues might have occurred. Forty-eight million dollars represents about 1.1 percent of a State budget that we can anticipate roughly 15 years from now. Alternatively, an investment of about 800 million dollars, yielding 6 percent, would provide 48 million dollars of income per year, in perpetuity. While the numbers may seem large in absolute terms, they are not particularly

significant in the context of the numbers with which the State will be dealing in the near future. In any event, the assumed foregone income is substantially over stated.

In short, relatively small investments by the State over the next 20 to 30 years could easily endow an income stream in perpetuity that would exceed anything that would likely be derived from the lands and resources being given in the trade.

For these, and other reasons stated above, the future fiscal impact of the trade is negligible.

VI. Economic Consequences of the Trade

The final question of significance is the impact of the trade on the general level of economic well-being in the State. In all probability, total economic activity will be largely unaffected by the trade. If we assume that Cook Inlet Region, Inc., is as development oriented as the State, then the net effect is negligible.

There are some factors that suggest that the trade will actually lead to an increase in activity. For example, the State's requirement of primary processing on timber sold from State land means that privately owned timber of comparable quality is more readily marketable. The fact that CIRI is a "for profit" corporation may also promote development that might not have occurred if the State had retained possession of the resources.

In any event, it is unlikely that the net difference will be of any significance in the overall situation. The ISEGR projections indicate that total personal income in the State in 1990 will be in excess of 10 billion dollars, even under the limited growth assumptions. It is hard to envision the net consequences of the trade having much effect on such a total.

TESTIMONY OF ROY HUHNDORF, PRESIDENT
COOK INLET REGION, INC.
BEFORE JOINT HOUSE-SENATE RESOURCES COMMITTEES

Chairman Poland, Chairman Anderson, and Members of the Committees: I am the President of the Cook Inlet Region, Inc., a Corporation that consists of more than 6,000 Native Shareholders, most of whom are residents of the State of Alaska. I welcome the opportunity to appear before you to discuss the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area."

I come here as part of a long journey, a journey to secure for the people of Cook Inlet Region their land entitlement under the Alaska Native Claims Settlement Act.

The land that Cook Inlet obtains under the Alaska Native Claims Settlement Act is its birthright. We must protect that Birthright. If we failed to protect that birthright, through ~~wise~~ unwise selection of lands, the historical claims of our people might be forever lost or slowly reduced to nothing. The Region would be taxed out of existence shortly after 1991. There would not be a viable Corporation.

In 1972, after the Act was passed, the Secretary withdrew mountaintops and glaciers for the Region. The State had already patented most of the low-lying land in the Region. Virtually all of the remaining low-lying land was committed to the State by the Secretary in September, 1972, when Alaska vs. Morton was settled. This was without consultation with the Region even though our interests were substantially affected.

The State had taken the land that the Federal government should have withdrawn for Cook Inlet under the Act.

This was the situation faced by our Shareholders for over two years. In 1974, Senator Jackson and Congressman Meeds promised legislative relief for Cook Inlet Region. It appeared that a just solution could be worked out. On the eve of such a solution, as it became clear that there was Federal support for our cause, Cook Inlet Region was urged by the State to change its legislative strategy so that the interests of the State's citizens would be better harmonized with the interests of Cook Inlet's shareholders. The Borough urged the Region to change its legislative goals and remove the Campbell Airstrip, Point Woronzoff and other lands from consideration in the draft legislation then before Congress. In effect, the Region was urged by all sides not to look selfishly at its claims for a just settlement of its entitlement under the Alaska Native Claims Settlement Act. The Region was urged to work out with all the competing interests what would be a rational and thoughtful approach in which public needs could be melded with private needs.

This was one of the most difficult periods in the Corporation's history. We were being asked to abandon our past course of action and set out on an entirely new approach, one where we would be asked to put the claims of the Region in the context of the general public interest.

Let me recount some of the hurdles that this new approach placed in our way:

1. We were being asked to abandon claims to Point Campbell, Campbell Airstrip and Point Woronzoff in light of the Boroughs interests.

2. We were asked to abandon claims to the Swanson oil

fields so that the present income of the State of Alaska could be maintained.

3. We were asked by environmental groups to abandon claims that would affect the recreational interests, not only of Alaskans, but of the American public.

4. We were asked to abandon claims that would adversely affect wildlife habitats or that would impair the quality of water.

5. We were asked to abandon claims to lands, even though they were withdrawn for the Region, because they were located near potential capital sites.

The Region agreed to work for a thoughtful general approach that would demonstrate that the interests of the Native Corporations would be consistent with the interests of the State as a whole. It was critical to show that the Native Corporations were concerned with orderly growth.

This approach meant more than eight months of constant negotiations. Working out a thoughtful settlement has had its physical and mental toll on the volunteer members of our Board of Directors who gave unselfishly of their time.

We bargained in good faith. We followed the rules imposed by the State. I do not think we should be penalized for that. We thought we had reached a settlement last December. Now, Madam Chairman, we fear that the bargaining rules may be changing after a settlement has been reached.

To be sure, we are not altogether pleased with the outcome of the settlement. We have had to shift more than half our land outside the boundaries of our Region against our will, and only with the deepest tolerance and concern by our sister Regions. The total surface land to which the Region is entitled has been reduced. We have agreed to a greater state and federal role on some of our lands than would be the case under the Act.

Our Village corporations were required to abandon selections in Lake Clark. We surrendered claims to other very valuable and important lands withdrawn for our selection. These are points that are overlooked. It is also overlooked that the Native people lived on and occupied all the low-lying land in this area. The Act provides that the land for the Native Corporations should be similar to Village land. Our Region is the one Region where the State had patented almost all such land for itself.

Also overlooked are some of the benefits to the State in the agreement. In the absence of the agreement there are certain hazards for the State. Some of the problems faced by the State in the absence of a negotiated settlement are as follows:

a) elimination of a steady stream of income to the State from producing federal fields.

b) elimination of the chance to receive immediately the Campbell Air Strip for the Anchorage Borough.

c) The possibility that the Ninth Circuit or the Congress will set aside the 1972 Agreement between the State and the Federal government on the ground that the agreement breeched the federal trust responsibility to Cook Inlet Region.

d) Long and painful litigation for every piece of land to which Cook Inlet is entitled.

In addition and conversely, the State adds substantially to its Statehood entitlement. It improves its bargaining position in the upcoming Section 17(d)(2) negotiations. The Agreement also provides the State with its only coastline on the west coast of Cook Inlet, South of Tuxedni Bay.

More generally, the agreement seeks to improve land holding patterns from the Talkeetna's to the mouth of the Kvichak.

Madam Chairman, I want to, at this time, also touch on a few issues that have become of particular concern.

The first is the relationship between this agreement and the Statehood Act. I have made it clear to the Chairman that we did not seek an amendment to the Statehood Act nor did we consider such an amendment necessary to carry out the terms of our Agreement. The House Judiciary Committee in the House Journal for April 21, 1972 explaining A.S. 38.95.060(b), suggested that subsurface transfers could be accomplished by three way transfers with the Secretary of the Interior. We relied on that suggestion and on our interpretation of Section 6(i) of the Statehood Act. We maintain that there was no need for an Amendment to the Statehood Act for our transfer. We fought to have the amendment removed from the Cook Inlet provision of the statute.

Second, there is the question whether this transfer is a bad precedent. No Region in Alaska had the concentration of State patented lands that faced Cook Inlet Region. In the first ten years after statehood when these lands were selected by Alaska, the State was already on notice that the Natives had claims to such land. It is only because more than five million acres of low lying

land had been patented to the State in Cook Inlet Region that the federal government and the Congress looked to the State for participation in the solution. It is doubtful that this legislature will find another instance where this is the case.

Third, there is the question of procedures for such land trades. I assure you that we support legislative efforts to make clearer the procedures to be followed by a Native Corporation seeking to work with the State. We have suffered because of the lack of such procedures. I think Cook Inlet did the best that could be done under the circumstances. We think such procedures should provide guidance on the following issues:

a) what steps should be taken to consult with local governments where land to be traded is in their vicinity.

b) at what point should the intention of the State to engage in exchange negotiations be made public and what steps should be taken to notify the public.

c) what role should the public play, if any, in exchange negotiations.

d) at what point should tentative agreements be made public.

e) what size transfer agreement should be referred to the Legislature.

f) under what circumstances, if any, should there be subsurface transfers. And if there can be such transfers, what special procedures should be developed.

g) how should value determinations be made, particularly for large tracts where there are no present obvious ways of calculating value.

Fourth, there is the question of the Beluga coal lands. These lands were a critical part of the bargain. The State precluded all known producing oil fields. The Cook Inlet Region concurred if the Beluga lands were included. We then agreed, after very hard bargaining, to the exclusion of over 75% of the coal-bearing lands because they had mental health status.

I believe that this was a fair bargain. I also believe that erroneous figures have been employed to inflate the loss to the State and the gain to the Cook Inlet Region. The coal in the Capps Glacier lease is not clearly economic in the short run. It is uncertain that it will be developed before the coal in the Chuitna lease (coal that remains in State ownership). If that is so, the modest figures in the State geology report may, themselves, be too high.

It should also be made clear that the State has already transferred to private parties the right to extract the coal. If the State lost its coal future, it is not because of this transaction, but because of the leases it entered into some years ago.

Finally, it has already been made clear from preliminary talks with some of the lessees that Cook Inlet will not be able to profit from the coal unless it contributes, through capital, to the acceleration of development. Our feeling is that we will be a good and helpful partner as lessor; better we think, for the economy than the State as a partner.

And finally, Madam Chairman, I wish to summarize by saying that This agreement is a difficult and complex one. It represents months of negotiations, of consultations with the Anchorage Borough, with the various interests that are involved in the future of Alaska. It has been praised by Congressman Don Young. The Alaska delegation unanimously supported it.

It passed the Senate and House of Representatives unanimously. I am glad that the Agreement is the subject of these discussions under your careful guidance. I am glad that questions as to the Governor's authority will be clarified by the Legislature's action. Many technical questions will arise as you go through your process of deliberation. We are ready to answer these questions. Our very future is at stake. We have done everything that we think could reasonably be expected of us. We are now asking for your support and approval.

Special To The Times - By Harold H. Galliett, Jr.
First of a Series

THE GREAT COAL FRAUD

Of what are we defrauded?

A clique of top state officials conspires to give the Cook Inlet Native Corporation the following immensely-valuable state lands:

1. 13.5 townships (311,000 acres) of patented state coal land in the Beluga coalfield, including the critical deep-water port and industrial area essential to Alaska coal processing and shipment. I have estimated the recoverable coal in these townships from work by Barnes, McGee, Hackett and Grantz and from private data. Using a 50 percent recovery factor applied to coal in seams over 2 feet thick and less than 2,000 feet deep, I estimate that there are at least 5 billion tons - and possibly as much as 14 billion tons - of recoverable coal in these townships.

2. 5 townships (115,000 acres) of patented or tentatively-approved state coal land in the Homer coalfield. I have estimated the recoverable coal in these townships from work by Barnes and McGee and from private data. Using a 50 percent recovery factor applied to coal in seams over 2 feet thick and less than 2,000 feet deep, I estimate that there are at least 7 billion tons - and possibly as much as 12 billion tons - of recoverable coal in these townships.

3. 1.2 townships (28,000 acres) of the most valuable tracts of patented or tentatively-approved state land in various areas of the Matanuska-Susitna Borough. The specific tracts to be given away have not been made public, but, if the profligacy of the rest of this deal holds, we can expect these tracts to include Point Mackenzie port lands and proven coal lands of great value. I have estimated the recoverable coal in these most valuable tracts from work by McGee and from private data. Using a 50 percent recovery factor applied to coal in seams over 2 feet thick and

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less than 2,000 feet deep. I estimate that there are at least 1.5 billion tons - and possibly as much as 3 billion tons - of recoverable coal in these tracts.

4. Other, smaller tracts are also involved.

At a coal royalty of only 20 cents per ton, we will be losing 2.7 to 5.8 billion dollars in future coal royalties. At a price of only $10,000 per acre for critical deep-water port and industrial land, we will be losing 100 to 150 million dollars in future state land income. At a price of only $2,000 per acre for Matanuska-Susitna land, we will be losing over 50 million dollars in future state land income. In adding it all up, we stand to lose the appalling sum of 2.8 to 6.0 billion dollars in future state income because of this deal!

We are being gulled into giving away an enormous resource of readily-accessible, easily-mined coal of phenominally-low sulfur content. This coal is on the threshold of development to replace declining US production of oil and gas and to reduce our national dependence on foreign oil.

We are asked to hand over the critical deep-water port and industrial area essential to the future processing and shipment of not only Beluga coal, but also Susitna coal, Matanuska coal, Nenana coal and other resources from the Interior and North Slope! We are importuned to dispose of routes to Mental Health coal lands and rights-of-way for road and railway extensions, pipelines and water supply works.

Are we expected to hold still for this outrageous defalcation without a map, without a legal description, without a development plan, without a geological report, without a drilling program, without a valuation? Are we to be kept in the dark to the eleventh hour, so that this robbery can be railroaded through Congress?

Under the circumstances, we ordinary citizens may be forgiven for demanding a searching, unhurried, no-nonsense investigation by our legislature.

Next: What kind of "Gold Brick" do we get?

Special To The Times - By Harold H. Galliett, Jr.
Second of a Series

THE GREAT COAL FRAUD

What kind of "Gold Brick" do we get?

In return for immensely-valuable state coal lands, which were described in the first article of this series, the Cook Inlet Native Corporation proposes to give the state 31 townships (714,000 acres) of almost-inaccessible back country in the following areas:

1. Mountains and hills near the canyon of the Susitna River. This land surrounds a federal power site withdrawal for the Susitna power project, and is almost worthless except as a state-financed hunting preserve. Most of the poor-best of this area has been selected by Native Village Corporations.

2. Hills and mountains northwest of Lake Clark and Lake Iliamna and the rocky coastline, hills and mountains fronting on Kamishak Bay. This land is almost worthless, except as a state-financed hunting preserve.

The Department of Interior "magnanimously" proposes to allow the state to use part of our statehood acreage entitlement to select 30 townships (691,000 acres) of hard-to-reach hinterlands in the following areas:

1. Lake Clark - Lake Iliamna watershed. Local Native Village Corporations have selected almost all of the waterfront land on Lake Iliamna and about one-quarter of the waterfront land on Lake Clark. The Department of Interior proposes to retain about one-quarter of the waterfront land on Lake Clark in a new national park. Native allotment claims and private hunting lodges occupy another significant fraction of the waterfront land on Lake Clark.

   The state owns the beds of all navigable lakes, rivers and streams in the Lake Clark - Lake Iliamna watershed. The famous red salmon from this area spawn in the lakes, rivers and larger streams. The state has jurisdiction over fish and game, and has adequate authority to protect fish and game on both public and private lands. The state will continue

to govern, tax and serve citizens in the area. The area and its citizens cannot be somehow severed from the state by proposed improvements in federal management of the hinterlands.

Therefore, "control", as touted by top state officials, of the Lake Clark - Lake Iliamna watershed, even by state acquisition of all 30 townships in this one area, is impractical. Ownership of the entire watershed would require a far greater commitment of statehood selection entitlement than the proposed 30 townships. Clearly, this schemer's dream of somehow wresting "control" of the entire watershed is impractical and unnecessary: Impractical because of federal, Native and other ownership of nearly all waterfront land; unnecessary because of existing state ownership, jurisdiction and authority.

This land is almost worthless except as a state-financed hunting preserve.

2. High mountains and glaciers around Chakachamna Lake. This land surrounds a federal power site withdrawal, and is so rugged as to be almost worthless, even for hunting.

   Other, smaller tracts are also involved.

Thus, for 19.7 townships (454,000 acres) of state coal lands worth 2.8 to 6.0 billion dollars in future state income we are to receive 31 townships of almost-inaccessible backcountry and hard-to-reach hinterlands which are nearly worthless except as a state-financed hunting preserve!

Next: Who gains? Who loses?

Special To The Times - By Harold H. Galliett, Jr.

Third of a Series

THE GREAT COAL GIVEAWAY

Who gains? Who loses? And how much?

In return for immensely-valuable state coal lands, the Cook Inlet Native Corporation proposes to give the state almost-inaccessible backcountry and hard-to-reach hinterlands. The state coal lands to be given away are estimated to be worth $2.7 to $5.8 billion in future coal royalties, based on present royalty rates. The surface estate to be given away is estimated to be worth $200 to $400 million in future state income, based on present land prices.

The estimates given above look far to the future. To determine the present value of future receipts, we need first to increase present royalty rates and present land prices by an escalation factor representing inflation plus real increase in the price of energy resources and land. We also need to decrease future receipts at a discount rate representing inflation plus the real cost of hiring money.

Foreseeable improvements in coal extraction, conversion and transportation; increase of world population and industrialization; inexorable depletion of US and world oil and gas - all these factors foretell a rapid increase in coal royalties. For example, from 1967 to 1973 state coal royalties in the Beluga coalfield increased from 5 cents to 30 cents per ton.

Future state coal royalty rates will probably be based on a percentage of pit-head price backed in from the market. And, world oil, which paces the price of coal, is on an escalator from which there is no exit. Price of surface estate at state land auctions has also increased rapidly.

Consequently, I estimate that the escalation factor will offset the discount factor, and that present value of future income may be calculated with sufficient accuracy using present royalty rates and present land prices.

There are about 75,000 Natives enrolled in the 12 Native regional corporations located in Alaska. About 6,500 of these Natives are enrolled in the Cook Inlet Native Corporation. The population of Alaska today is

about 385,000 persons. Under the Alaska Native Claims Settlement Act, 70 percent of all revenues received by each regional corporation from subsurface estate patented to it under the Act shall be divided among all 12 regional corporations according to the number of Natives enrolled in each region. Native corporation profit, after effective taxes and administrative costs, is estimated at 50 percent of coal royalties and 40 percent of income from surface estate. The present value of future coal royalties and the present value of future income from surface estate to be lost by the state to the Cook Inlet Native Corporation is estimated at $2.7 to $5.8 billion and $200 to $400 million, respectively.

Who gains?

From the premises above, I calculate as follows:

1. Each enrolled Native in the 11 Native corporations in Alaska other than the Cook Inlet Native Corporation, will receive an increase in the present value of his or her stock of from $12,600 to $27,100. Thus, for a family with only three enrolled Native members, this generous gift will total $37,800 to $81,300!

2. Each enrolled Native in the Cook Inlet Native Corporation will receive an increase in the present value of his or her stock of from $87,200 to $185,500. Thus, for a family with only three enrolled Native members, this munificent endowment will total $261,600 to $556,500!

Who loses?

Each citizen loses in increased state taxes or in benefits which must be denied by our state government.

I estimate coal extraction will require 100 years, and the state will lose an average of $29 to $62 million in 1975 dollars during each year of that century.

And who will pay for the impact of coal development?

Next: Conflict of interest?

Special To The Times - By Harold H. Galliett, Jr.

Fourth of a Series

THE GREAT COAL GIVEAWAY

Recent Events

On January 2, 1976, President Ford signed into law - over objections by the Treasury, the Office of Management and Budget and the Department of Agriculture - an Omnibus Bill amending the Alaska Native Claims Settlement Act. This Omnibus Bill also amends our Statehood Act by removing the basic protection that the state retain mineral rights in land exchanges. To cap this piece of politically-expedient, election-year legislation, the Secretary of Interior is given authority to waive the "equal value" provision in future exchanges of state land.

Earlier proposals by the Hammond administration have been changed, voted by Congress and signed into law with neither adequate notice nor opportunity for response by Alaskans. Nevertheless, the Omnibus Bill, as sent to the conference committee, does give the State of Alaska a chance to accept or reject the controversial Cook Inlet land swap.

Most of the Omnibus Bill amending the Alaska Native Claims Settlement Act helps our Native people without hurting the other 80 percent of Alaskans. However, the controversial land swap destroys the compact integrity of patented state lands in the heartland of our state, creates conflict in land management where none existed, discourages settlement except by leasehold tenants on terms dictated by Native corporations, and denies 80 percent of Alaskans the income and responsible state control of an empire of coal on the threshold of development.

The consent of the State of Alaska to the controversial Cook Inlet land swap must be given, if at all, within 60 days of the commencement of the 1976 session of the Alaska legislature. Surely, it is arrogant that so short a time is allowed our legislature to evaluate a giveaway of energy resources at least equal to Prudhoe. However, the strategy of the proponents of this dissipation of the common property is to keep us in the dark, and to ram this infamous give-away through before common sense can prevail. For example,

it took two weeks to get a copy of the bill as voted by the House, and that copy was incomplete. It is unlikely that Alaskans will have the printed Omnibus Bill to study until well after our legislature convenes.

One or more bills will soon be filed with our legislature to give the consent of the State of Alaska to the controversial Cook Inlet land swap. Our legislature may then (1) consent to the vague and indefinite terms of the Omnibus Bill, (2) consent to a hard and specific bargain within the outlines of the Omnibus Bill, (3) refuse to consent or (4) do nothing. If the legislature does nothing, I expect Governor Hammond will proceed without legislative approval, unless restrained by the courts.

Next: How will the coal be mined?

Special To The Times By Harold H. Galliett, Jr.

Fifth of a Series

THE GREAT COAL GIVEAWAY

How will the coal be mined?

Recoverable coal which may be given away by the Hammond administration in the infamous Cook Inlet land swap, is estimated at 13 to 29 billion tons. At a royalty of only 20 cents per ton, this coal is estimated to be worth $2.7 to $5.8 billion in future state income, or about $7,000 to $15,000 for each man, woman and child in Alaska today!

In the deeper parts of the Cook Inlet basin, the coal-containing Kenai formation, which contains numerous thick and thin coal beds, is more than 20,000 feet thick. Oil well logs, coal drilling, outcrop measurements and geophysical surveys are available today for useful estimates of coal resources. Contour maps of coal thickness have been plotted. The estimated coal resources in the entire Cook Inlet Basin exceed 1.3 trillion tons, but most of this coal is either beneath Cook Inlet, covered by thick glacial deposits, below a depth of 2,000 feet, or distant from deep tidewater.

In the Beluga area, near deep tidewater, enough coal has been found in the shallow Capps and Chuitna beds alone, to keep two, 6 million ton-per-year surface mines going for over 50 years. Stanford Research Institute estimates that the Capps beds will be 30 percent cheaper to mine than the Chuitna beds. Unfortunately, the Hammond administration proposes to give the Capps beds to the Cook Inlet Native Corporation.

No matter how large our coal resources may be, these resources have little value until we can foresee a regular progression of future technologies by which the coal can be mined at a net benefit.

Today, our coal must be mined by surface methods. Colossal bucket-wheel excavators will remove soft overburden. Huge power shovels and draglines will excavate hard materials and coal. Conveyor belts will move the excavated materials. Belt stackers will spread the overburden on mined-out areas. Under our climatic conditions, it will be relatively-easy to establish forest or grassland on recontoured areas.

The quality of surface restoration and the effectiveness of coal conservation will depend on land ownership and future laws. If the state owns the land, we may expect mining to be controlled in the long-term public interest.

Coal recovery by surface mining methods may be as high as 90 percent. Each 6 million ton-per-year surface mine will create about 200 mining jobs with top pay and benefits.

In favorable locations, underground mining will begin soon after surface mining. Sophisticated continuous mining machines and longwall methods will be used. Coal recovery will range from 50 to 90 percent.

Underground gasification of coal will begin soon after conventional mining. Steam and oxygen will be used to drive the reaction. The raw product will be synthesis or fuel gas consisting of hydrogen and carbon monoxide with impurities.

In one method of underground coal gasification, high-speed tunnel boring machines will open the coal beds by boring a grid of tunnels in the coal. Some solid coal will be produced by tunnel boring, and this will pay most or all of the cost of opening the coal beds. Shafts, pipes, stoppings and controls will be installed to direct gas flow and to guide the firefront. The burn will be lit, steam and oxygen supplied, and coal gas recovered. Roof let-down will follow the firefront.

Coaly-shale and coal in thin beds - values usually lost in conventional mining - may be recovered by underground gasification. Coal recovery should range from 50 to 90 percent. Safe mining depths will be moderately greater than for conventional coal mining.

In another method of underground coal gasification, wells will be drilled into the coal. Adjacent wells will be linked by hydraulic fracturing. The burn will be lit, steam and oxygen injected and coal gas withdrawn from adjacent wells. Coal recovery may be less than 50 percent, but this and similar underground gasification methods are expected to recover coal from deep coal beds which can be mined in no other way.

Next: Oil from coal! Who needs OPEC?

Monroe Price

10,000
100

4,000
3000
12% 7,000

1. Historical Opportunity - won't be available again

2. Full Public Process

3. Alternatives

— Amendments from Admin
— Barrier Testimony

Cook Inlet gives up rights in legal standing by further delay - hence the March 12 deadline

Legis May not amend land trade

1. Coal - in beluga land
25% / 75% Mental Health land
2,000 / 500 ++ Measurements

2. Oil in Beluga lands

3. Mechanism of selecting out of Region lands

90 select 30
strike 10% select 10%
81 strike 5% select 5%