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STATE OF ALASKA
OFFICE OF THE GOVERNOR
ANCHORAGE

February 19, 1980

For your information.

John W. Katz
Special Counsel to
the Governor

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

STATEMENT OF GOVERNOR JAY HAMMOND
CONCERNING SENATE TIME AGREEMENT

February 15, 1980

The following statement contains Governor Jay S. Hammond's analysis of the time agreement which will govern future Senate consideration of the pending Alaska lands legislation. The agreement, which was arrived at last Thursday, specifies the rules for debate and amendment of the legislation reported last November by the Senate Committee on Energy and Natural Resources:

"I want to indicate at the outset that I was not privy to the discussions which preceded the execution of the time agreement. Therefore, I do not know the details of the parliamentary situation which confronted Alaska's two Senators. I am certain, however, that they did everything within their power to assure favorable treatment of our concerns.

"The time agreement hopefully gives the State some additional leverage by postponing the date for Senate consideration of the lands legislation. Legislation considered closer to the end of a session is easier to control.

"This benefit should not be overemphasized, however. The lands legislation now has a momentum and a life of its own. The time agreement almost assures that the lands bill will be considered shortly after the July recess and also precludes the opportunity to filibuster Senate passage of this legislation. Of course, we have felt for quite some time that the Senate majority leader, for a number of reasons, would probably bring the bill to the floor some time this year. Moreover, it is unlikely that a filibuster could have been maintained for very long.

"Unfortunately, the time agreement does not control our efforts to deal with the bill in any subsequent conference with members of the House of Representatives, nor does it preclude the opportunity to filibuster Senate approval of the conference report. It should be noted, however, that under some scenarios, a conference committee may never be convened. The agreement permits Senator Tsongas to propose five whole title amendments to the legislation reported by the Senate Energy Committee. If Senator Tsongas is dissatisfied with the results of the amendment process, he can call for a vote on his substitute bill, which is substantially similar to the Udall-Anderson measure.

"If Senator Tsongas succeeds with most of his key amendments, or if his substitute is adopted, it is very likely that the House will simply adopt the Senate bill. In such circumstances, a conference with the House would not occur, and the State would lose much of the leverage which it might otherwise have.

"However, it should also be noted that under the time agreement, Senators Jackson, Stevens, and Gravel each may propose three amendments. We hope to work with these and other Senators to seek needed improvements in the legislation reported by the Senate Energy Committee. The amendment process will not be easy. It is likely that much of what we want will be opposed by proponents of the Tsongas substitute, and we will have to work very hard to convince uncommitted Senators of the merits of what we are requesting.

"If we are successful in protecting the essential elements of the Energy Committee bill or in making some of the improvements which most Alaskans want, it is very likely that the U.S. House will request a conference with the Senate. The 96 million acres of national monuments, wildlife refuges, and special management areas which have been created by unilateral executive action, together with further anticipated withdrawals, create a situation which would enable proponents of the Udall-Anderson bill to be more insistent about what they want.

"Despite this, I believe that our principal vulnerability is on the Senate floor, and not in a conference. On the basis of our prior experience, I believe that the State can fair reasonably well in a conference committee situation, as we have done in the committees with substantive jurisdiction and in the so-called "ad hoc conference" of a couple of years ago. Moreover, as mentioned previously, the need for a conference committee would give the State additional leverage in that forum and perhaps during subsequent Senate consideration. Also, it is likely that all three members of our Congressional delegation would participate in the conference.

"However, I do not believe that it is reasonable to expect that some substantial changes would not be made in the conference, particularly with respect to boundary delineation. Yet, for a number of reasons, I believe that the consensus points can be largely protected.

"In summary, I believe that the time agreement may provide some potential benefits, but these opportunities should not be overemphasized. We have a very difficult task before us. In order for us to succeed, we must work extremely hard, and perhaps most important, we must have unity. If such unity does not exist, our chances for success will be severely diminished, for the proponents of the Udall-Anderson bill are dedicated and united."

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

February 21, 1980

Bill Reffalt
Fed Withdrawals
ENV Impact Statements

Mr. Bill Reffalt
Chief, Alaska Native Claims
U. S. Fish and Wildlife Service
U.S. Department of the Interior
C Street Between 18th & 19th Streets, N.W.
Washington, D. C.

MAR 5 1980

Dear Bill:

This correspondence is written in response to the Department of the Interior's request for written comments concerning its Notice of Intent to Prepare Environmental Impact Statements and Supplements for proposals relating to the Alaska Peninsula, Iliamna area, and certain named rivers in Alaska. This Notice appeared in the FEDERAL REGISTER on January 31, 1980.

I want to indicate at the outset that our submission of written comments should not be construed as diminishing the State's resolve to pursue its present litigation against the Federal government respecting the designation of new national monuments, wildlife refuges, and special management areas in Alaska by means of unilateral executive action. We continue to believe that the various claims made in that litigation are meritorious. However, in order to be of maximum assistance in the EIS process, and in accordance with the dictates of existing case law, we want to participate constructively and fully in your analysis of available options.

We strongly support the Department's decision to prepare new environmental impact statements in connection with the proposals now under study. In fact, as indicated in our current lawsuit, the State believes that new environmental impact statements are a necessary predicate to all of the executive actions taken by the President and the Secretary since November, 1978. In our opinion, the existence of new resource information and statutory authority, such as the Federal Land Policy and Management Act, require a total reconsideration of the environmental impact statements drafted by the Department in 1974. (It is also our position that such statements, for both procedural and substantive reasons, were inadequate for their original purpose.)

As a general matter, the State believes that a reasonable legislative solution is far preferable to the creation of new conservation units by executive action. The reasons for this conclusion have been documented in prior Congressional testimony by Governor Hammond and other State officials, and in previous correspondence to the Department. Accordingly, I will not dwell upon these reasons here, except to indicate that they have special relevance in connection with proposed executive action relating to the Alaska Peninsula and Iliamna.

The Bristol Bay region was the subject of considerable discussion and negotiation preceding and during the Senate Energy Committee's markup of Alaskan lands legislation last year. As a consequence of these deliberations, the Committee formulated a solution which was concurred in by all of the principal parties involved. In essence, this solution would have resulted in the immediate legislative conveyance to the State of some 4 million acres around Lake Iliamna, and in the designation of certain Federal wildlife refuges. The resolution just alluded to appears in both the legislation reported by the Senate Energy Committee and in the Tsongas substitute. While parts of this resolution can be implemented by executive action - and we would suggest that this be done if any further action is undertaken - there can be no question that the legislative alternative would be far preferable from the point of view of most of those who participated in the original discussions concerning the Bristol Bay region.

Our specific comments regarding the analysis contained in the Department's recent Notice are as follows:

1. There can be no question that some of the areas under consideration contain "outstanding" fish and wildlife populations and habitat. However, we believe that the statement of issues to be considered should avoid the use of such subjective modifiers. Otherwise, a bias may creep into the subsequent analysis. Thus, for example, while utilizing the adjective "outstanding" to modify fish and wildlife populations and their habitat, no such modifier is used to describe the hydroelectric potential of the Susitna River. Yet, initial studies of that project would clearly lead to the conclusion that the Susitna does possess "outstanding" potential.

2. The statement of issues refers to "(o)ther elements of the local economy." (Emphasis supplied.) We believe that such scrutiny should be expanded to include regional, statewide, and national impacts. Restricting or prohibiting the utilization of certain resources may have impacts which transcend local situations, and we believe that a good environmental impact statement must assess these consequences.

3. The Alaska Peninsula area contains deposits of coal. Accordingly, possible impacts on the future exploration and development of this resource should be assessed in the same manner as the scoping document would require for oil and gas resources located on the Peninsula.

4. New environmental impact statements should consider the impact of any future Federal land designations on State, Native, and other private lands which are located within or are adjacent to the areas involved. This examination should consider both upland and submerged lands which have or will be transferred out of Federal ownership. In addition, we believe that the impact statements should consider impacts of State and private landholdings on the capacity of the various Federal land management options to achieve the desired objectives. In particular, such scrutiny should consider the question of whether unilateral executive action is preferable to more cooperative approaches, such as a cooperative planning regime which takes cognizance of the migratory nature of certain species of fish and wildlife.

5. While the short time frame allotted by the Department for comment on the scoping document has precluded an exhaustive literature search, we would suggest that the documents listed immediately below be considered in drafting future impact statements. These documents, which contain new resource data or information relating to OCS leasing, are as follows:

(a) "Mineral Terrains of Alaska Map", University of Alaska, AEIDC, 1979.

(b) USGS, AMRAP Report covering Iliamna and Alaska Peninsula areas.

(c) USGS Open File Reports: #78-1E Southern Alaska; #77-169F Southwestern Alaska; and #77-1691 Coal on Alaska Peninsula.

(d) USGS literature summaries by Cobb, et al.

(e) USGS report in progress on oil and gas potential - update of USGS Circular 725.

(f) (1) State of Alaska's "5 Year Leasing Program", January, 1980; (2) Interior Department's OCS Leasing schedule; and (3) Bristol Bay Native Corporation's' petroleum exploration plans.

(g) "Exploratory Soil Survey of Alaska", USDA, Soil Conservation Service, 1978.

6. Last year, the Alaska Legislature enacted a concurrent resolution (copy enclosed) setting forth seven consensus points for use in assessing the adequacy of the pending Alaska lands legislation. These criteria are also relevant in any consideration of executive action.

While most of the consensus points are referred to one way or another in the scoping document, we believe that possible impacts on the traditional Alaska lifestyle should receive further attention. Such an examination should not only consider impacts on subsistence use, but also the total impact of increased Federal restrictions, regulations, and bureaucracy on the traditional use of public lands by urban and rural Alaskans. In addition, we believe that the EIS documents should carefully consider (and adopt) the "no-action" option, which is the rough equivalent of the consensus point relating to administrative forbearance from creating further conservation withdrawals in Alaska.

7. We believe that neither the U. S. Fish & Wildlife Service nor the Heritage Conservation and Recreation Service possesses all of the expertise necessary to prepare a truly interdisciplinary environmental impact statement. Therefore, we urge these agencies to solicit the assistance of other Federal agencies and departments and of other parties with expertise in the varied matters referred to in the scoping document.

In behalf of the State, I want to thank you for this opportunity to comment on the Notice of Intent to Prepare Environmental Impact Statements. We look forward to providing further input as the EIS process continues.

Sincerely,

John

John W. Katz
Special Counsel

cc: Governor Jay S. Hammond
Lieutenant Governor Terry Miller
Ms. Cynthia Wilson
Ms. Sue Kemnitzer
Mr. Jim Pepper

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The following organizations eithe
Bill as reported from the Senate Energy &
oppose the Senator Tsongas substitute bil

Conservation and Recreation

National Outdoor Coalition
National Rifle Association
Safari Club International
Boundary Waters Canoe Alliance
United Fourwheel Drive Association
Territorial Sportsmen of Alaska
Game Conservation International
International Association of Fish and Wildlife Agencies
National Trappers Association
American Fur Industry
North American Foundation for Whild Sheep
National Wildlife Federation (State Affiliates)

Alaska	Virginia
Texas	Ohio
Washington	Illinois
Michigan	New Jersey
Mississippi	Pennsylvania
Georgia	Wyoming
	New York

Western & Midwestern State Fish and Wildlife Agencies
Connecticut Sportsmen's Alliance
National Campers & Hikers Association
Jackson Hole OUtfitters
Philadelphia Federation of Sportsmen
Wildlife Legislative Fund of America
Wildlife Society
Main's Sportsmen
REAL Alaska Coalition

Unions

AFL-CIO
International Brotherhood of Teamsters
Laborers International Union of North America
Seafarers International Union of North America
United Paperworkers International Union
United Association of Journeymen & Apprenctices of the Pipefitting Industry of the U.S,
International Brotherhood of Carpenters
International Union of Operating Engineers
International Brotherhood of Electrical Workers
American Society of Professional Engineers
Washington State Building Construction Trades Council
American Society of Civil Engineers
Marine Engineers Beneficial Association

Unions (cont.)

International Longshoremens & Warehousemens Union
United Brotherhood of Carpenters and Joiners of America
Maritime Trades Department of AFL-CIO
Laborers International Union of North America

Government & Civic

National Association of Counties
Good Sense Forum
Alaska Municipal League
Western Interstate Regions

Land Use

Public Lands Council
National Grange
National Park Inholders Association
American Farm Bureau
American Land Development Association
National Association of Cattlement
National Association of Realtors

Trade Associations

Association of Equipment Distributors
Associated General Contractors
National Association of Manufacturers
National Association of Home Builders
National Association of Property Owners
U.S. Chamber of Commerce
National Rural Electric Cooperatives

Aviation
National Air Transportation Association
Alaska Air Carriers Association
U.S. Seaplane Pilots Association

Timber and Lumber

American Forestry Institute
National Forest Products Association
Southern Forest Products Association
Western Timber Association
Federal Timber Purchasers Association
Industrial Forestry Association

Energy & Minerals

American Petroleum Institute
Rocky Mountain Oil & Gas Association
Western Oil and Gas Association
American Gas Association

Energy & Minerals (Cont.)

Alaska Oil & Gas Association
American Mining Congress
Southern Oregon Resource Alliance

Native Corporations

Skee Atika Native Corporation
Sea Alaska Corporation

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

OFFICE OF THE GOVERNOR

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FEB 4 1980

January 18, 1980

(4)(2) Katz
1980 Campaign
AK Lands

Dear Senator _____:

This correspondence is written to urge your support for the Alaska lands bill reported by the Senate Committee on Energy and Natural Resources, and your opposition to the Udall-Anderson bill and the Tsongas substitute, which is virtually identical in all important respects to the Udall measure.

Unfortunately, the Alaska lands issue has become clouded in misinformation and innuendo. The issue is not one of environment versus development or concerned citizens juxtaposed against special interests.

The Committee's bill and other pending legislation are all strong environmental measures. Each bill would more than double the size of certain federal conservation systems, would designate several parks and wildlife refuges larger than many states, and would protect important scenic and wildlife resources throughout Alaska. Moreover, all of the pending bills exceed, by a very wide margin, the 80 million acre ceiling which the 91st Congress, in balancing the various competing interests, authorized the Secretary of the Interior to study for permanent conservation designation.

At the same time, the Committee bill addresses other important federal and State concerns. For one thing, this legislation would facilitate the environmentally-sensitive assessment of Alaska's oil and gas and other mineral resources. Representations to the contrary notwithstanding, the Udall and Tsongas bills do not accomplish this result, nor can it be said that 95 percent of Alaska's oil and gas resources would be available for development under these measures.

In view of recent events in Iran and elsewhere, the Committee bill's treatment of Alaska's oil and gas resources seems only prudent. Moreover, carefully conceived exploration now could avoid panicky, unplanned efforts later as energy resources become increasingly less abundant.

In addition, the Committee bill, far better than any other pending measure, would help to satisfy Alaska's entitlement under the Statehood Act--an unfulfilled federal promise made over 20 years ago--and to address other State concerns. These concerns were expressed in a resolution enacted last year by the State Legislature. In my opinion, the resolution asks from the Congress only that which the responsible representatives of any State would request in similar circumstances.

In brief, we ask that any Alaska lands bill contain provisions to: (1) fulfill Alaska's entitlement under the Statehood Act;

(2) provide needed access across Federal lands; (3) insure continuing State management of resident wildlife and fish; (4) remove high-value commodity resources from the boundaries of conservation units within which even environmentally responsible development would be precluded; (5) assure traditional Alaskan uses at existing levels; and (6) require administrative forebearance from the imposition of further conservation withdrawals without Congressional concurrence.

It is my judgment and that of the Alaska Congressional delegation that the Udall and Tsongas bills simply do not satisfy these basic objectives. While both measures contain some provisions which purport to deal with such matters, the treatment, by and large, is totally inadequate.

To assist you in considering the pending Alaska lands legislation and the reasons for my support of the Energy Committee bill, I am enclosing the following supplemental information:

1. A critique of the Udall-Anderson and Tsongas bills. This memorandum analyzes the two bills in terms of the principal federal and State interests which are affected.

2. Myths and facts about the Alaska lands legislation. This document sets forth some of the principal misconceptions and inaccuracies about the pending legislation, as articulated in verbatim quotations, and then provides a refutation of these statements, particularly those dealing with Alaska's energy potential.

3. Congressional testimony on Alaska energy sources. This testimony, which was prepared by one of Alaska's foremost geologists, briefly summarizes the existing data respecting Alaska's energy resources.

4. Summary of new information concerning the oil and gas potential of the Arctic National Wildlife Range. This statement summarizes the data contained in a new U.S. Geological Survey-State of Alaska report on the Arctic National Wildlife Range and includes an interpretation of that report by the State geologist.

5. A comparative summary of the pending legislation. This summary provides a brief, but accurate, description of the Committee bill, the Udall-Tsongas measures and existing law.

6. A summary of the land designations in the Carter Administration proposal. While there are certain differences in boundaries and land management designations between this proposal and the Committee bill, it is worth noting that many of the acreage totals for conservation systems and individual units are similar.

7. Caribou and oil. This paper, which was written by one of Alaska's foremost wildlife biologists, describes the possible effects of oil exploration and development on the Porcupine caribou herd, concluding that properly regulated exploration should have little impact on the herd or its calving grounds in the Arctic National Wildlife Range.

Most Alaskans recognize that important federal, as well as State, interests are involved in the Alaska lands issue. We believe that Alaska is large enough and diverse enough to accommodate these interests without jeopardizing the economic viability of the United States or the State, or imposing a "permit" lifestyle on our citizens.

Thus, the issue is not one of environment versus development, but rather relates to which measure best balances the various considerations which are involved. In my opinion, the bill reported by the Senate Energy Committee (by a vote of 17-1) best accomplishes this result. That measure is the product of nearly 60 markup sessions held over the past two years, together with numerous hearings and workshops. Unlike the Udall-Anderson and Tsongas bills, the Committee bill reflects the need to avoid polar extremes in the resolution of the complex series of issues raised by the Alaska lands legislation.

Thank you for your consideration of this correspondence. If you have any questions, please contact me at (907) 465-3500, or my Special Counsel, John W. Katz, at (202) 624-5858.

Sincerely,

Jay S. Hammond
Governor

Enclosure

GOVERNOR

907-278-2502

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

A CRITIQUE OF THE UDALL-ANDERSON BILL (H.R. 39), S.222, AND THE TSONGAS SUBSTITUTE*

ACREAGE

The Udall-Anderson bill would affect a total of 155 million acres in Alaska.** The following table indicates how lands are set aside under the Udall measure:

New Lands	Millions of Acres
Parks and Monuments	27.0
Park Preserves	17.0
Wildlife Refuges	79.0
Wild & Scenic Rivers	2.0
Forest Additions	2.5
New Lands Total -	127.5
Wilderness Designations	
Existing Park/New Wilderness	7.0
Existing Refuge/New Wilderness	14.1
Existing Forest/New Wilderness	6.4
Subtotal -	27.5
New Park & Preserve/ New Wilderness	26.8
New Refuge/New Wilderness	13.2
Subtotal -	40.0
Wilderness Total -	67.5
Lands Affected	
New Lands	127.5
Existing Lands Designated Wilderness	27.5
TOTAL LANDS AFFECTED -	155.0

* While the Udall-Anderson bill differs in some respects from S.222 and the Tsongas substitute, these differences (except

(footnotes on following page)

Dealing with millions of acres is akin to dealing with billions of dollars--after the first few zeros, the numbers are difficult to fully comprehend. To provide some perspective, the Udall bill's "new lands" set aside of 127.5 million acres is larger than the State of California (101 million acres). The highly restrictive wilderness designations total 67.5 million acres--more than twice the size of New York (33 million acres). Some of the individual parks and refuges are also immense, such as the 12-million acre Wrangells-St. Elias Park/Preserve and the 10-million acre Yukon Flats Refuge. For comparison, the State of Maryland covers less than 7 million acres, and the State of Massachusetts is 5 million acres in size. Lastly, the total land area affected by the Udall bill (155 million acres) is equal to the land mass of the eastern coastal states from Maine to South Carolina.

Alaska's Crown Jewels

Proponents of the Udall bill often argue that enactment of that measure is critical if the "crown jewels" of Alaska are to be protected. Nothing could be a greater exaggeration. For over a year, every version of the Alaska lands legislation which has received the serious attention of Congress has protected the "crown jewels." Thus, the areas cited as examples when the "crown jewels" are discussed are permanently protected under S.9, which was recently reported by the Senate Committee on Energy and Natural Resources.

(footnote continued from preceding page)

for relatively small variations in the acreage figures provided above and for relatively minor changes noted elsewhere in this critique) are not germane to the analysis contained herein. Thus, it is fair to say that the geographic designations and management provisions of all three bills are virtually the same in their impact.

**It should be noted in this regard that Section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971 (ANCSA) specified that "up to but not to exceed 80 million acres" were to be withdrawn and studied for possible inclusion in Federal conservation systems.

Notwithstanding certain statements to the contrary, it is worth noting that former Secretary of the Interior Rogers C. B. Morton recommended approximately 83 million acres for inclusion in conservation units. Of this acreage, approximately 18 million acres were earmarked for national forests, which are managed on a multiple use basis, and there was no "instant" wilderness.

In protecting Alaska's "crown jewels," S.9 establishes or expands 14 units of the National Park System totalling more than 44 million acres. These designations would double the size of the National Park System in the United States. S.9 also establishes or expands 12 units of the National Wildlife Refuge System (some units larger than many states) totalling nearly 36 million acres, and designates more than 37 million acres of Alaska lands as wilderness, while earmarking many millions more for wilderness study. In so doing, S.9 doubles the size of the National Wilderness Preservation System and more than doubles the National Wildlife Refuge System in this country. Finally, 24 of Alaska's finest rivers or river segments are added to the Wild and Scenic Rivers System by S.9, with 10 additional rivers being designated for further study. The conservation designations in S.9--approximately 103.3 million acres of new set asides and 118.9 million total acres of new and existing withdrawals which are designated or redesignated--equal in acreage the land mass of all the New England and Mid-Atlantic states combined.

The Udall measure would create conservation units far in excess of the acreage required to protect the "crown jewels." Under the "broad brush" approach of the Udall bill, important commodity resources are included within conservation units which would preclude the use of such resources in the future.

A dramatic example can be seen in the Yukon Flats. Far beyond the significant habitat areas which produce over two million ducks annually, the Udall boundaries encompass several million acres of upland and benchland areas above the Flats. These areas, which the State wishes to receive as partial fulfillment of its Statehood Act entitlement, comprise some of the finest agricultural soils in all of Alaska. The Udall refuge boundaries also include the White Mountains, an area radically different in terrain from the Yukon Flats and studded with existing mining claims.

Udall proponents argue that these areas must be included within the refuge under the "total ecosystem" theory that any development in the region would adversely affect the waterfowl habitat of the Flats. The "ecosystem" of the Yukon Flats, however, is fed by two major rivers from Canada and numerous tributaries which run through existing private lands. Denying resource use on Federal lands beyond the important habitat areas cannot protect the Flats. Enforcement of existing environmental quality standards would allow resource use and would insure protection for the waterfowl habitat, which is one of the "crown jewels" of Alaska.

Numerous other examples of such "environmental overkill" exist throughout the Udall bill.

Oil and Gas

The Udall bill would severely impact both the exploration and development of Alaska's important onshore oil and gas potential.

Adverse impacts would result from: (a) wilderness designation of the Arctic National Wildlife Range (ANWR), which has been estimated to contain as much as 14 billion barrels of recoverable reserves; (b) an adequate means of addressing transportation across conservation system units which block access routes to areas with oil and gas potential; (c) creation of new and unreasonably burdensome procedures for oil and gas leasing; and (d) other severe restrictions on exploration and development.

The ANWR is situated 55 miles east of the Prudhoe Bay oil and gas field, which holds nearly 10 billion barrels of recoverable oil and 26 trillion cubic feet of natural gas. A geologic sequence, similar to that encountered at Prudhoe Bay and in the Canadian oil and gas fields to the east, is thought to exist within the Range. It is the combination of favorable geology and proximity to a developed transportation system (the Trans-Alaska Pipeline) which makes the ANWR the most promising oil and gas prospect on the North American continent.

Although the acreage of ANWR with prime oil and gas potential is relatively small, this limited acreage could conceivably contain a large percentage of the economic oil and gas resources in onshore Alaska. Since acreage cannot be processed in a refinery, attention must focus on the hydrocarbon resource and its location. As noted, the Udall measure designates this important oil and gas area as wilderness, which precludes any assessment and development activity, even under the most stringent environmental safeguards.

It should be noted that no pending Alaska lands bill proposes the development of ANWR. Thus, S.9 proposes a systematic study of petroleum, wildlife, and other values, with the final decision about development being left to Congress. Proponents of the Udall bill oppose this careful assessment; they apparently do not trust the Congress to make the right decision once all relevant information is known. (As yet, there has been no seismic exploration in ANWR. While most biologists believe that oil exploration can occur without adversely affecting the Porcupine caribou herd, there is little data relating to impacts from any future development.)

Moreover, the Udall bill would impose restrictive management designations on certain petroleum provinces which have not yet been explored. While holding out the theoretical possibility of exploration and subsequent development, the management guidelines and leasing formula provided in the Udall bill make it unlikely that oil and gas will ever be discovered or produced. Thus, for example, new oil and gas activity has almost never been permitted in a wildlife refuge irrespective of whether the area involved has been designated wilderness.

In addition, the Udall bill effectively blocks transportation system access to and from other oil and gas areas. Development

of Alaska's energy resources will be largely contingent upon construction of new petroleum transportation facilities. Many of these facilities will have to cross conservation units at some point. Since the Udall measure relies heavily on existing right-of-way laws, locating pipelines and related facilities across such areas would be very difficult.

Lastly, the Udall measure abandons existing law regarding onshore oil and gas leasing in Alaska and imposes a new and more complex leasing process. Essentially, the bill splits leasing into exploration and development phases. Thus, in some instances, exploration permits must be secured, and if a discovery is made, a separate development lease must be obtained. The additional bureaucratic delays and uncertainty caused by these new leasing procedures would surely impede oil and gas development in Alaska. Moreover, there is no evidence to suggest that existing law, without the proposed Udall changes, does not adequately serve the public interest.***

State Lands

Although the Statehood Act of 1958 granted the State of Alaska 104 million acres of land, the State has received effective title (patent or tentative approval) to only about 38 million acres. Moreover, the State has been prevented from selecting many of the lands which it has identified.

The Udall measure exacerbates this situation by adversely affecting 16 million acres of land desired by the State. The bill includes approximately 4 million acres of pre-1978 State selections inside the boundaries of its parks, preserves, refuges, etc. Hence, recognized State lands become inholdings by virtue of the expansive Udall boundaries. In addition, the Udall boundaries seek to deny the State 12 million acres or one-third of the State's November, 1978 selections.

One of the most serious defects of the Udall bill regarding State lands is that it deletes key provisions relating to the implementation of the Alaska Statehood Act. Last year, in response to a number of long-standing problems regarding the selection and conveyance of State lands, the version of the Alaska lands bill which passed the House incorporated a comprehensive title designed to remedy these problems. A similar title was included in the version of the bill recently reported by the Senate Committee on Energy and Natural Resources, and in the bills reported last spring by the House Interior and Merchant Marine and Fisheries Committees.

***It is sometimes rumored that Alaska is exporting oil to Japan. This is simply not true. In fact, such exports are prohibited by Federal law.

While the Udall bill does include certain technical provisions pertaining to the State land selection process, a number of key components are absent. For example, the bill does not contain provisions which grant the State an extension of the selection period (in recognition of years of Federal land withdrawals, freezes, and other executive actions).

Of tremendous concern to the State, the current version of the Udall bill excludes provisions which would immediately convey to the State all selected lands outside of the exterior boundaries of conservation units established by the final legislation. In the absence of such a conveyance, the State will face additional years of delay and uncertainty in obtaining its land entitlement.

Minerals

The development of Alaska's mineral potential is severely constrained by the Udall bill. First, the bill would statutorily withdraw approximately 145 million acres, or 40 percent of Alaska, from mineral entry. These closures would have a major impact on those mineralized areas rated highly favorable by the U.S. Bureau of Mines. Nearly 70 percent of these areas are withdrawn.

Second, several existing world-class mineral discoveries are included within wilderness areas, preserves, etc. Under existing regulations, it is extremely difficult to open a major mining operation within such units. Hence, inclusion of these discoveries in restrictive units may be tantamount to prohibiting development. Among the affected discoveries are the U.S. Borax molybdenum find (one of the world's largest discoveries),**** the Green's Creek silver-gold-lead-zinc deposit, the Mr. Prindle uranium discovery, and the Orange Hill copper find.

Third, access routes to other major mineral areas are blocked by the pattern of unit designations. For example, the extremely important Ambler district (where three of the mineral discoveries are valued at more than $8 million) is virtually surrounded by three Park Service wilderness areas and two wildlife refuges. It is highly improbable that developed surface transportation to these mineralized areas would be permitted across such units, especially considering the inadequate transportation and access mechanisms in the Udall bill.

****This deposit is addressed, albeit inadequately, in the Tsongas substitute. While including the statutory guidelines contained in S.9, the substitute proposes wilderness boundaries which are too constricted to permit efficient mine development.

Timber Jobs

The Tongass National Forest in Southeast Alaska supports a timber industry which is the backbone of the region's private industry. Approximately 3,000 people are employed directly by the timber industry, which has an average of 520 million board feet annually (MMBF/YR) over the past seven years.

The Udall bill sets aside 5.8 million acres or 36 percent of the forest as wilderness. According to Forest Service data, this wilderness set aside would reduce the permitted annual harvest on national forest lands to 360 MMBF/YR or 30 percent less than the present average level. The Forest Service estimates that a harvest reduction of that magnitude would eliminate up to 2,000 existing jobs and would raise regional unemployment to a devastating 35 percent.

Proponents of the Udall bill have attempted to offset this adverse employment impact by: (1) authorizing additional funds for intensive forest management, and (2) making assumptions regarding the use of Native owned timber. Regarding extra monies, the bill authorizes 8 million dollars annually for intensive forestry management on non-wilderness lands and provides subsidies to the industry to enable it to harvest sub-economic timber stands. Even if these additional funds are appropriated each and every year--and certain key Congressmen and Senators have indicated that such appropriations will not be forthcoming--the allowable cut can be raised to only 410 MMBF/YR. A harvest at that level could eliminate up to 1,300 existing jobs.

Accordingly, supporters of the Udall measure must make critical assumptions regarding the use of Native owned timber. These assumptions run counter to the spirit of the Alaska Native Claims Settlement Act, which is premised on Native self-determination. In essence, proponents of the Udall bill want to use Native timber to offset the adverse consequences of excessive wilderness designations. Only by committing such timber to the existing industry can adverse employment impacts be held to a minimum. However, exercising the economic freedom granted them in ANCSA, the Native corporations in Southeast (with one exception) are opposed to any scheme, the principal purpose of which is the utilization of their timber to mitigate employment consequences.

By contrast, S.9 also establishes millions of acres of wilderness and other protective designations encompassing the "crown jewels" of Southeast Alaska. While the bill does not mandate any particular level of annual harvest, it does seek to perpetuate existing jobs and concomitant community stability. However, the means employed--the designation of special management areas subject to Congressional review and stringent interim protection--are straightforward and realistic.

Wildlife Management

One of the principal reasons for Alaska's fight for statehood was its desire to manage fish and resident wildlife. The experience with Federal management during territorial days had been bleak. Generally, such management was fragmented and badly funded, and it often appeared arbitrary to local residents. Since statehood, the State has established a comprehensive management program premised on carefully compiled data. As a result, most populations of fish and wildlife species are currently viable and healthy. The few exceptions involve species which are primarily subject to natural fluctuation.

The Udall bill threatens the traditional Federal-State relationship with respect to the management of fish and resident wildlife. In several important sections, the bill fails to draw a clear distinction between the Federal government's responsibility for habitat management and the State's traditional role as the manager of resident wildlife. This confusion could lead to Federal interference in the setting of seasons, bag limits, methods of take, and other facets of day-to-day regulation. The inevitable consequence of such interference would be fragmented and uncertain management which would inure to the detriment of the species involved. By contrast to the Udall bill, S.9 draws a much sharper distinction between the respective roles of the Federal government and the State.

One of the most blatant examples of the Udall bill's failure to perpetuate traditional State authority is illustrated by the Federal oversight section of the subsistence title. Following a consultative process in which the State receives little procedural protection, the Secretary of the Interior is authorized to set seasons, bag limits, and methods of take upon a finding that the State is failing to meet certain subsistence-related requirements. These requirements already exist in Alaska law, and the State has no problems with the policy which is embodied therein. However, the failure of the Udall bill to provide adequate procedural protection raises the very real possibility of constant Federal interference in State management. By contrast, S.9 provides the State with additional procedural safeguards, both at the administrative level and in any subsequent judicial challenge. While a few Native corporations have stated their preference for the Federal oversight mechanism contained in the Udall bill or the approach embodied in S.9, many others have indicated that either approach would be acceptable.*****

*****By including certain language from S.9, the Tsongas substitute attempts to clarify the Federal-State relationship with respect to wildlife management. However, this attempt is vitiated by the substitute's inclusion of the previous Federal oversight provisions of the Udall bill.

Recreational Hunting

Throughout Alaska, recreational hunting is an important activity with significant economic spin-offs. The President's unilateral creation of new national monuments in December, 1978 closed 43 million acres to recreational hunting, coupled with an additional 7.5 million acres closed by statutory or executive action in prior years. Although much of Alaska remains open to recreational hunting despite the national monument designations, the lands closed by the President's action contain much of the high quality hunting areas sought by those who prize the opportunity to hunt in truly wild country.

The Udall bill does take steps to correct some of the anti-hunting excesses of the President's action. In acreage terms, the Udall measure closes 27 million acres. Unfortunately, the impacts of closing these areas are still quite substantial. Thus, the Alaska Department of Fish and Game estimates that the Udall bill would close 50-55 percent of the Dall sheep hunting, 20-21 percent of the bear hunting, and 10-12 percent of the moose hunting in the State. As a consequence of these permanent closures, there would be increased hunting pressure on adjoining lands, with the concomitant management problems which such pressure would generate.

In addition, hunting guides would be heavily impacted. Between 47 and 49 percent of the established and State-assigned guide areas fall partly or completely in parks. For example, under the Udall bill, no areas within the 8-million acre "Gates of the Arctic" complex would be open to recreational hunters.

The Udall measure could also impose restrictions on hunting-related activities in many areas, particularly in wilderness units. These restrictions create a situation where, although recreational hunting is legally permitted, hunters may be denied access or other necessary use of the area.

Transportation and Access

Various studies conducted by government agencies and universities have identified a number of serious problems in existing law relating to the approval of transportation and utility systems which cross Federal lands. These problems include a lack of coordination between Federal agencies and between Federal and State agencies; the absolute veto power vested in land-managing agencies, which often lack transportation expertise; the failure of many existing laws to specify clearly the criteria which should be used in considering an application; lengthy and unwarranted delays; gaps in existing law; bifurcated procedures for approving systems and rights of way; and lengthy court delays.

In Alaska, the problems just cited are exacerbated by the extremely large conservation units established in all pending measures and by the fact that, in contrast to the experience of most other states, Alaska's surface transportation system will be developed after, rather than before, the creation of restrictive conservation withdrawals.

The Udall bill does not meet the challenge created by these factors. For one thing, its use of boundaries delineation to avoid future conflicts is far less sophisticated than in S.9. As a consequence, key access points, such as port sites, river crossings, and mountain passes, are encompassed within restrictive units when there is often no apparent need to do so.

This flaw could seriously jeopardize future onshore and offshore oil development, which is totally dependent on needed access. Thus, although the Udall bill may theoretically allow petroleum exploration and development in certain areas, difficulties in building needed facilities related to offshore development or in obtaining access in favorable topographic locations may well thwart future oil development.

Perhaps the greatest transportation-related inadequacy of the Udall bill is its treatment of the problems in existing law which were described previously. While the Udall measure does improve on existing law, it does not go far enough. One significant inadequacy is the bill's heavy dependence on the antiquated procedural mechanisms contained in existing law. Many other problems are more technical in nature. However, the net result of these inadequacies is a transportation process which cannot address basic policy objectives upon which virtually all proponents of Alaska lands legislation are in agreement.

The issue of access to inholdings is also more troublesome in the Udall bill than in other pending measures, particularly because the conservation system units contained in the bill encompass far more State and private lands.

Conclusion

For the reasons outlined in this analysis, the State of Alaska urges support for S.9. This measure was recently reported by a 17-1 vote of the Senate Committee on Energy and Natural Resources. It represents the product of numerous hearings and workshops and nearly 60 markup sessions held by the Committee during the past two years. Unlike the Udall-Anderson and the Tsongas substitute, S.9 represents a careful balance of environmental and developmental concerns. Its solutions are carefully conceived, reflecting

the need to avoid polar extremes in the resolution of the complex series of issues raised by the Alaska lands legislation. Fortunately, Alaska is large enough and diverse enough to accommodate such solutions.

One other thing should be mentioned. When the Udall bill was being considered in the House of Representatives, some of its proponents contended that enactment of such an expansive measure was necessary to counter expected Senate action designed to eviscerate the Alaska lands legislation. In fact, such action has never materialized, nor was it ever likely. Accordingly, we believe that S.9 should be kept intact, so that needed adjustments can be made in conference. (Please see the November 16, 1979 "Dear Colleague" letter circulated by Senators Jackson and Hatfield regarding the need to leave the Committee bill intact on the Senate floor.)

STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

Myths and Facts About the Alaska Lands Legislation

August 28, 1979

The following statements have been taken directly from testimony presented by Congressmen Udall and Seiberling and from correspondence to Congress written by members of the Carter Administration. Not only are these statements extremely inaccurate and misleading in themselves, they contribute to a pattern of hyperbole and misperception which has pervaded the Alaska lands debate from the beginning.

Most of the statements have been advanced as arguments in support of the Udall-Anderson bill. In this context, the statements take on added significance, because they have become a misleading basis for an advocacy position. Since the statements discussed below deal with such important elements of the pending legislation, we feel compelled to set the record straight.

General Statements and Philosophy

1. Myth: "...The Udall-Anderson bill is the fair and balanced bill the House passed last year..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

   Fact: The Udall-Anderson bill is not the bill that passed the House last year. There are many significant differences and omissions. For example, the Udall-Anderson bill increases the amount of wilderness acreage, particularly in the extremely sensitive region of Southeastern Alaska, omits important provisions relating to the conveyance of State lands, creates additional conflicts with commodity resources and State selection desires, and significantly increases the total amount of acreage that would be affected by Alaska lands legislation.

   Moreover, it should be noted that some of the principal proponents of the Udall-Anderson bill claimed that the

*With certain exceptions not relevant here, the so-called Huckaby bill reported by the House Interior Committee is similar to S.9, which is now pending before (and was reported last year by) the Senate Committee on Energy and Natural Resources. Therefore, statements and rebuttals addressed to the House measure apply equally to S.9 and the Senate's consideration of that bill.

Senate would pass a weak Alaska lands bill, and that therefore it was necessary for the House to pass Udall-Anderson in order to establish a strong negotiating position in the conference committee. There has never been any evidence that the Senate would treat the Alaska lands legislation in the manner just indicated. In fact, the Senate Energy Committee reported a strong environmental bill last year.

2. Myth: "...In our approach we have been guided by two principles. One is save and preserve only the areas of true national significance. The other...is that we exclude areas of economic interests..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

   Fact: Proponents of all the Alaska lands bills support these principles. The problem is that the Udall-Anderson bill does not apply them. For example, that proposal would include in wilderness areas two of Alaska's seven world-class mineral discoveries identified by the Stanford Research Institute. (Also see comments regarding the Arctic Wildlife Range and Southeast Alaska.)

3. Myth: "It is very clear that two-thirds of Alaska is wide open (for development)..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

   Fact: This is not an acreage game. Resources, whether they be beautiful scenery, minerals, or wildlife habitat, are where you find them.

   Moreover, the State has enacted stringent land use and environmental controls which apply to State and private lands. In addition, the State has created numerous State parks and critical habitat areas, including two of the largest State parks in the United States. Several Federal statutes regulate or prohibit activities on Federal lands which are unaffected by the D-2 legislation, and certain Federal environmental laws apply to all lands.

Energy

4. Myth: "...The most likely sources (of oil and gas) are offshore. Every single area is available. We mandate the Secretary to go ahead and start leasing this. Of the 149 million sedimentary basins onshore, all are made available except 2 million..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

   Fact: Neither the Udall-Anderson bill nor any other pending Alaska lands measure deals with oil and gas development on the

Outer Continental Shelf. This matter was treated in legislation enacted by the Congress last year. Moreover, it should be recognized that oil development in Arctic coastal areas poses environmental risks far exceeding those associated with upland development or OCS development elsewhere in the country.

With respect to the last sentence quoted above, the Udall-Anderson bill would prohibit oil and gas development in ten million acres of favorable onshore petroleum provinces, as identified by the United States Bureau of Mines. Portions of these provinces are included in national parks, park preserves, and wilderness areas located in national forests and wildlife refuges.

5. Myth: "...95% of the oil and gas potential, both the high and favorable, as well as the sedimentary basins, is open for development." --Congressman Seiberling, testimony before the House Rules Committee, April 30, 1979.

Fact: In addition to the response to Myth No. 4, petroleum experts make it clear that the existing data base will not support such assertions. One memorandum prepared by geologists for the State of Alaska concludes:

> "Thus, a statement such as '95% of the energy resources of Alaska lie outside proposed D-2 boundaries' is inaccurate, misleading, incomplete, and incorrect, unless the author has some statistically correct means of concomitantly stating how sure, or how unsure, he is of his estimate. If he cannot make this important qualification, his statement is not only meaningless, but a distortion of the truth."

Moreover, Congressman Seiberling's statement presupposes the inclusion of an adequate title relating to the transportation of energy resources. The transportation title in the Udall-Anderson bill is not nearly as good as its counterpart in other pending measures, and therefore could discourage development located far from existing transportation facilities.

Finally, it should be noted that the Udall-Anderson bill would substantially alter the system for upland oil and gas leasing in certain areas. The net effect of these changes is to create a bifurcated approval process that would probably impede future leasing. The need for such changes is questionable, particularly since the existing Mineral Leasing Act of 1920 has worked reasonably well and has frequently been amended to address environmental and other concerns.

6. Myth: "...recently the USGS made tests right next to the (Arctic National Wildlife) Range and they find that the facts on which they had extrapolated are incorrect. They have downgraded their estimates to the point where it looks like it is not even an economically viable potential..." --Congressman Seiberling, testimony before the House Rules Committee, April 30, 1979.

   Fact: There has been no new testing in the Arctic Wildlife Range. The USGS report referred to by Congressman Seiberling consisted of a re-evaluation of the existing data base. The report simply indicated that the physical conditions governing oil and gas potential in the Arctic Wildlife Range are probably somewhat different than those at Prudhoe Bay. Most petroleum experts still believe that the coastal plain of the Arctic Wildlife Range is the most promising unexplored upland petroleum province on the North American continent.

7. Myth: "...You could not get any more oil (out of) Alaska if you wanted to. You would have to build another pipeline..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

   Fact: This is simply not true. The present oil pipeline is not operating at full capacity, and could receive additional through-puts. In addition, given the lead time required for exploration and development, it is likely that the Prudhoe Bay field will be declining about the time that new discoveries would come on line.

8. Myth: "The Bill (Udall-Anderson) will expedite leasing in this Reserve (National Petroleum Reserve - Alaska) and is preferable to any alternative before the House." --Secretary Schlesinger, correspondence to Congressman Ashley, dated May 4, 1979.

   Fact: While the Udall-Anderson bill does contain provisions for expediting leasing in the National Petroleum Reserve - Alaska, those provisions are actually weaker than ones included in the Breaux-Dingell bill, which was pending at the time of Secretary Schlesinger's letter. For example, in contradistinction to Breaux-Dingell, the Udall measure, as it existed at the time of Secretary Schlesinger's letter, did not mandate a deadline for leasing. On the House floor, the Udall-Anderson bill was amended to include the stronger language from Breaux-Dingell.

9. Myth: "Although it is true that some of the areas in Alaska that will be foreclosed to development have favorable geological anomalies which are potentially important for oil and gas,

the total amount of possible oil and gas acreage in Alaska for which exploration and development would be prohibited is not great." --Secretary Schlesinger, correspondence to Congressman Ashley, dated May 4, 1979.

Fact: While this statement is true, its use to support the Udall-Anderson approach is quite misleading, especially in its inference that the exploration and development of important new energy sources in Alaska would not be adversely impacted by H.R. 39. Acres of land are not barrels of oil, and as mentioned above, the Udall-Anderson bill would foreclose exploration of the most significant upland petroleum prospect in Alaska. Moreover, the foreclosed acreage lies in close proximity to the recent discoveries near Point Thompson and to the existing Trans-Alaska Pipeline.

State Lands

10. Myth: "...Mr. Udall didn't mention that in addition to the 105 million that the State has been granted to select, and they have already selected 100 of those 105 million and the argument is only about the other 5 million which they want to select into parks and so forth. The natives have gotten 44 million acres granted to them so you have a total of 149 million acres that are going to go to the inhabitants of the State..." --Congressman Seiberling, testimony before the House Rules Committee, April 30, 1979.

Fact: Of the 103.5 million acres promised to the State of Alaska some 20 years ago in the Alaska Statehood Act, the State has received effective title (patent and tentative approval) to only 36 million acres. While the State has filed selections encompassing many more millions of acres of its entitlement, much of this acreage is presently under administrative or judicial challenge by the Federal Government. If the Federal Government is successful--and we will probably not have a final answer for several years--the State will fall far short of its total entitlement, but the deadline for selection (which is 1984) will have expired. Moreover, while the location of most Native selections is not fixed, less than 9 million acres of the total Native entitlement promised in 1971 has been conveyed.

11. Myth: "We do not support the expedited conveyance language in...this bill (Huckaby) and recommend that it be deleted from the bill. Substantial policy, procedural, and administrative changes have begun to make the existing conveyance process function as it should." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.

Fact: The State conveyance language included in the Huckaby bill, S.9, and the version of H.R. 39 which passed the House last year, was developed during an intensive process which

involved the direct participation of the Department of the Interior. Despite important "administrative and procedural" changes which the Department has made since then, the existing conveyance process has not yet begun to "function as it should." In late 1978, Secretary Andrus announced that the State would receive conveyance to considerable acreage during 1979. Well over half the year has passed, and the State has yet to receive a single acre.

As a consequence of problems in the administrative processing of State selections and of certain factors beyond the control of the Interior Department, Alaska has received effective title to only about 36 million of the 103.5 million acres promised some twenty years ago at statehood. The conveyance title in Huckaby would streamline the land transfer process and would effect a number of needed changes in the Alaska Statehood Act. These changes are important, and cannot be made by administrative action.

Timber Harvesting and Mining in Southeast Alaska

12. Myth: "...(Regarding Admiralty Island in Southeast Alaska)... they chop it up and make it into something called the pulp bank so pulp can continue to be shipped..." --Congressman Udall, testimony to the House Rules Committee, dated April 30, 1979.

Fact: Everyone agrees that the existing annual cut and job levels in Southeast Alaska should be maintained. The principal conflict concerns the method for accomplishing this. Under the bill reported last year by the Senate Energy Committee, a portion of Admiralty Island would be designated as a special management area and managed as wilderness for a ten-year period. If, at the end of the ten-year period, studies show that the annual cut cannot be maintained, Congress could authorize timber harvesting. If Congressmen Udall and Anderson are correct that their approach to Southeast Alaska will not reduce the annual cut or existing job levels, Admiralty Island would never be harvested under any of the pending bills.

13. Myth: "...We can produce the same amount of timber as in the past 4 or 5 years and there would be room for growth. There will not be a single job in Alaska lost in the timbering industry and there will be room for growth..." --Congressman Seiberling, testimony before the House Rules Committee, April 30, 1979.

Fact: Given the wilderness designations in the Udall-Anderson bill, both additional federal funding and State and privately-owned timber would be required to maintain the existing level of harvest. There is no guarantee of either. In fact, there is every indication that adequate appropriations would not be forthcoming. Moreover, the ten-year average

harvest, which represents a more accurate picture of the timber industry in Southeast, is significantly higher than the four-or-five-year averages used as a basis for the Udall-Anderson bill.

14. Myth: "The Udall-Anderson compromise responds to the timbering, mining, fishing, and employment issues (affecting Southeast Alaska) raised during the development of this legislation." --Secretary Bergland, correspondence to Congressman Lungren, dated May 7, 1979.

Fact: Econometric studies by the U.S. Forest Service (page 27, final EIS, Tongass Land Use Management Plan) show that Southeast Alaska's timber industry could sustain a significant loss of jobs as a result of the land designations in the Udall bill. According to some projections, unemployment in the region could exceed thirty-five percent (35%). Of the three major mineral discoveries in Southeast Alaska which have been identified by the Stanford Research Institute, two are included within wilderness areas. Thus, the U.S. Borax molybdenum find at Quartz Hill, perhaps the largest deposit of its type in the world, is located within the proposed Misty Fjords wilderness. While wilderness designation theoretically does not preclude the development of valid mining claims, experience shows that further exploration and development are usually stifled. In summary, all proponents of Alaska lands legislation advocate the establishment of large wilderness areas in Southeastern, but the designations in the Udall-Anderson bill are so excessive as to belie Secretary Berglund's statement.

15. Myth: "the Administration is committed to maintaining the timber harvest level of 450 mmbf from the National Forests in Alaska, through an increased investment of up to $12 million annually." --Secretary Bergland, correspondence to Congressman Lungren, dated May 7, 1979.

Fact: This statement, used as evidence of a guarantee for protection of existing jobs in Southeast Alaska's timber industry, is very misleading. The Congress must appropriate the funds to make it come true. Moreover, the Administration's budget recommendations for timber programs in the national forests actually showed a reduction this year from previous years. In light of this, it is difficult to believe that Congress would increase appropriations to Alaska, especially at the apparent expense of the other western states. This conclusion has already been substantiated by the statements of one subcommittee chairman who has jurisdiction over Forest Service programs.

Mining

16. Myth: "...Are we fair on mining?...We have given them 700 years of drilling at 1,000 acres per day to open up. We say drill in

those areas first..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

Fact: Under the Udall-Anderson bill, 70% of the acreage rated by the Bureau of Mines as highly favorable for hardrock minerals would be permanently withdrawn from development. The total amount of acreage available for mineral development is not the critical factor--it is the location of that acreage which is important.

17. Myth: "It (the Huckaby bill) mandates the President to recommend by 1981 a program for private mineral development on parks." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.

Fact: The Huckaby bill merely directs the President to make recommendations on the advisability of opening areas to development. Like other elements of the study and reporting requirements, the objective is to compile resource and policy information for use by Congress in subsequent decision-making. In fact, under all pending bills, national parks, preserves, and national park monuments are closed to mineral development unless opened by subsequent Congressional action.

Transportation

18. Myth: "(The Huckaby bill) rewrites existing law on the subject (transportation access) for Alaska. We believe existing law is adequate and the entire transportation title is unnecessary and ought to be deleted from the bill." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.

Fact: While proponents of various Alaska lands bills have disagreed about the mechanics of a transportation title, every bill which has been seriously considered by the Congress during the last three years has incorporated a comprehensive title dealing with transportation and access across conservation system units. The present transportation system in Alaska is embryonic, and the conservation units which would be established through the Alaska lands legislation are immense, often isolating State and Native lands, communities, and commodity resources. Most people who have considered the issue believe that Alaska's situation is unique and that a number of problems in existing law are exacerbated by the factors mentioned above.

Hunting

19. Myth: "...We say (Udall-Anderson) 90 percent of the whole area will be open for sport hunting..." --Congressman Udall, testimony before the House Rules Committee, April 30, 1979.

Fact: This figure is entirely erroneous, whether it applies to the total land mass of Alaska (375 million acres) or only to Federal lands in Alaska. With respect to the entire State, the following lands are now, or would be, closed to public sport hunting: 44 million acres of Native lands; several million acres of existing Federal reserves such as McKinley National Park; 30 million acres designated in the Udall-Anderson bill; and certain State and private lands. If one looks only at Federal lands, the combination of existing reserved lands, together with the additional areas closed by the Udall-Anderson bill, would exceed 10 percent of such lands. In addition, several important sport hunting areas open under pending bills are closed in the Udall-Anderson proposal. Finally, with hunting, as with other resource issues, percentages and numbers of acres open to a given use are not nearly so important as the location and quality of the resource.

Alaska Native Position

20. Myth: "...and it is no coincidence that the Natives, whose interest we have carefully tried to protect in this legislation, are supporting the Udall-Anderson bill." --Congressman Seiberling, testimony before the House Rules Committee, April 30, 1979.

Fact: Alaska Natives, like any other large group of people, do not speak with one voice on this extremely complex series of issues. Certain proponents of the Udall-Anderson bill asked several of the Native corporations to abandon their long-standing neutrality regarding support of any particular bill as a quid quo pro for inclusion in the Udall-Anderson bill of amendments of particular interest to each corporation. Some corporations wrote equivocal letters endorsing legislation containing their amendments; others refused to respond to this demand. The Alaska Federation of Natives, the official spokesman for most of the Native regional corporations, has refused to endorse any particular Alaska lands bill. The State of Alaska strongly supports the Native amendments included in the Udall-Anderson and other bills considered by the House.

Specific Geographic Areas

21. Myth: **"(The Huckaby bill) does not provide refuge protection for all of the Alaska Peninsula refuge proposal." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.**

    Fact: **Under the Huckaby bill, the entire Bristol Bay Region, including the Federal lands on the Alaska Peninsula, would be designated as the Bristol Bay Cooperative Region. Following a three-year cooperative study between the Federal Government and the State, a plan would be presented to both Congress and the State Legislature. During the interim period of the study, all Federal lands within the region would be managed by the U.S. Fish and Wildlife Service as a refuge. If the plan is unacceptable to Congress, all of the Federal lands on the Alaska Peninsula (and certain Federal lands elsewhere in the region) would continue to be managed "as if they were included within a refuge established under Section 302 of this Act."**

22. Myth: "It (the Huckaby bill) deletes key habitat from the existing Yukon Flats National Monument, an area that every year produces 2.1 million waterfowl." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.

    Fact: The area deleted from the Udall-Anderson proposal for Yukon Flats is geographically different from the Yukon Flats proper, and the former area, designated as a national recreation area in the Huckaby bill, lies far beyond the prime waterfowl habitat as identified by the U.S. Fish and Wildlife Service. In the important habitat area, the Huckaby boundary is identical to the boundary in the version of H.R. 39 which passed the House of Representatives last year and which was strongly endorsed by the Carter Administration.

Summary

23. Myth: "Existing laws designed to protect the public interest in Federal lands all over the country are waived or weakened. The bill flatly prohibits any future studies or withdrawals "except those authorized by this Act" for any purpose whatsoever; it opens 20 million acres of existing National Park System land to trophy and sport hunting; it opens the currently protected, extremely fragile Arctic National Wildlife Range to oil and gas exploration; it deletes key habitat from the existing Yukon Flats National Monument, an area that every year produces 2.1 million waterfowl; it omits refuge designation, adopted by the House in 1978, for the Togiak and highly productive Alaska Peninsula area; it makes unwarranted changes in existing law so as to permit roads, pipelines, coal slurry lines, railroads, etc., through national parks and wildlife refuges and wilderness areas; and it weakens wilderness protection by providing for a variety of incompatible uses." --Secretary Andrus, correspondence to Congressman Udall, dated March 13, 1979.

Fact: This is one of the most blatant examples of hyperbole and inaccuracy expressed by some participants in the process of developing Alaska lands legislation.

None of the pending Alaska lands bills purport to waive or amend existing environmental laws of general applicability, such as the Clean Air Act, the Water Pollution Control Act, or the Solid Waste Act. The Huckaby bill, though not S.9 with one exception, does obviate the need for certain withdrawals and studies because Congress is addressing these matters within the framework of a comprehensive, multi-million acre legislative solution.

With respect to Secretary Andrus' statement regarding hunting within units of the National Park System, it must be noted that no pending bill would open to hunting those lands which were closed prior to December 1, 1978. On that date, President Carter created 56 million acres of new national monuments, many of which are closed to sport hunting. At that time, the President indicated that his actions were intended to be interim in nature, pending a final Congressional resolution. If the people's elected representatives, after balancing all of the competing concerns, determine that certain adjustments in prior unilateral administrative actions should be made, it seems that such Congressional decision-making would represent a proper working of the Federal system, and would effectuate the Carter Administration's professed intentions.

With respect to the effect of the Huckaby bill on the Arctic Wildlife Range, it should be noted that this area is not currently designated as wilderness. Therefore, upon a finding of compatibility with refuge objectives, the Secretary of the Interior, under his existing authority, could open this area to oil and gas leasing. Thus, it is the Udall-Anderson bill which would change the status quo. In contrast, certain other bills would authorize a carefully-controlled assessment of the oil and gas potential of the Arctic coastal plain, thus permitting the Congress to make an informed decision at a later date to open or close the Range to oil and gas development. In this way, the possibility of panicky and unplanned exploration during some future oil crisis can be avoided.

The "Yukon Flats National Monument" is one of the areas established last year pending Congressional action. Moreover, the key habitat areas are adequately protected in all the pending measures (see Myth No. 22, Yukon Flats, and Myth No. 21, Alaska Peninsula).

With respect to the statement on access through conservation system units, none of the pending bills change the substantive standards for approval of transportation and utility systems. In recognition of certain deficiencies in existing law and Alaska's unique geographic circumstances, most of the pending measures, including the Udall-Anderson bill, improve the process for considering and approving applications. No proposed bill would permit administrative approval of access through areas where Congressional action is required under existing law. (Also, see Myth No. 18.)

Regarding Secretary Andrus' comments on wilderness, all pending bills contain provisions which make at least some modifications in the Wilderness Act in order to address the immense acreages involved and the unique nature of the rural Alaskan lifestyle. Thus, for example, all bills would permit certain motorized activities in wilderness areas. The changes in wilderness management which are allowed by the various bills are in fact minor, in relationship to the objectives of the Wilderness Act and the magnitude of the acreage placed in Wilderness.

TESTIMONY OF ROSS G. SCHAFF,
STATE GEOLOGIST, ALASKA
BEFORE THE
HOUSE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
OF THE
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

FEBRUARY 22, 1979

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: MY NAME IS ROSS G. SCHAFF, STATE GEOLOGIST FOR THE STATE OF ALASKA, AND DIRECTOR OF THE DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS OF THE ALASKA DEPARTMENT OF NATURAL RESOURCES. I HAVE SPENT 18-1/2 YEARS OF MY PROFESSIONAL CAREER IN ALASKA DEALING WITH VIRTUALLY EVERY ASPECT OF ALASKA'S MINERAL, ENERGY, AND WATER RESOURCES. TODAY I WILL COMMENT MAINLY ON PETROLEUM AND NATURAL GAS, BUT WILL ALSO MENTION COAL, SAND AND GRAVEL, AND WATER.

THE STAFF OF THE STATE GEOLOGICAL SURVEY HAS PREPARED A MAP WHICH DEPICTS THE YOUNGER SEDIMENTARY BASINS OF ALASKA WHICH HAVE A RESOURCE POTENTIAL FOR OIL AND GAS, AS WELL AS URANIUM, COAL, AND OTHER LEASABLE MINERALS. THIS MAP IS BASED SOLELY ON PUBLIC INFORMATION AND THE BOUNDARIES OF EACH BASIN ARE SUBJECT TO CRITICISM. NEVERTHELESS, THE MAP ILLUSTRATES THE GENERAL DISTRIBUTION OF THE OIL AND GAS POTENTIAL IN ALASKA, AS WELL AS THE MAGNITUDE OF THIS POTENTIAL. I HAVE ALSO PROVIDED THE COMMITTEE WITH AN "ENERGY RESOURCE MAP OF ALASKA" WHICH DEPICTS THE FULL RANGE OF ENERGY RESOURCES, INCLUDING POTENTIAL HYDROELECTRIC POWER SITES.

THE FIRST IMPORTANT POINT I WISH TO MAKE CONCERNING THE OIL AND GAS

POTENTIAL OF ALASKA IS THAT RELATIVE TO THE CONTERMINOUS UNITED STATES, THE DATA BASE FROM WHICH WE ARE ALL REQUIRED TO MAKE DECISIONS IS EXTREMELY WEAK AND UNCERTAIN. I RECOGNIZE THAT THIS STATEMENT HAS BEEN MADE MANY TIMES AND WILL BE MADE MANY MORE TIMES, BUT IN MY OPINION IT IS ONE OF THE MOST SIGNIFICANT REALITIES WITH WHICH WE MUST DEAL. I HAVE PROVIDED YOU WITH A LIST OF ALASKA'S BASINS AND A TABULATION OF THE NUMBER OF DRILL HOLES PER BASIN TO ILLUSTRATE MY POINT. SIGNIFICANT IS THAT TWELVE OF THESE BASINS HAVE NEVER BEEN DRILLED; FOUR HAVE HAD ONLY ONE HOLE; FIVE HAVE HAD FEWER THAN 10. ONLY TWO HAVE HAD SIGNIFICANT EXPLORATION, AND THESE ARE THE PRODUCERS: THE COOK INLET AND THE NORTH SLOPE. BY WAY OF CONTRAST, THE LOS ANGELES BASIN (1,250 SQUARE MILES) IS SMALLER THAN ALASKA'S SMALLEST BASIN, THE HOLITNA BASIN, AND HAS HAD APPROXIMATELY 20,000 HOLES AND PRODUCED 5.7×10^9 BARRELS OF OIL. FROM THIS, IT SHOULD BE CLEAR AT THIS STAGE OF EXPLORATION THAT WE CAN PROVIDE VERY LITTLE INFORMATION ABOUT THE ENERGY RESOURCES OF ALASKA'S SEDIMENTARY BASINS. CLEARLY, THERE IS A NEED FOR EXTENSIVE EXPLORATION OF ALL BASINS BEFORE VALID CONCLUSIONS CAN BE MADE.

A CASE IN POINT IS AN AREA OF CHIEF CONCERN TO THIS COMMITTEE, NAMELY, THE ARCTIC WILDLIFE RANGE. IN OUR OPINION, THE COASTAL PLAIN OF THIS RANGE AND THE ADJACENT AREA OFFSHORE HAS THE GREATEST POTENTIAL FOR OIL AND GAS OF ANY AREA IN THE UNITED STATES. THERE IS LITTLE MORE WE CAN SAY BECAUSE WE HAVE NO SEISMIC INFORMATION, NO DRILL HOLES; ONLY AEROMAGNETIC, GRAVITY, AND SURFACE INFORMATION. WHAT THEN IS THE BASIS FOR SUCH A GRANDIOSE STATEMENT?

FIRST, THE GEOLOGY IS UNIQUE TO THE NORTH SLOPE BASIN. THIS IS THE ONLY AREA OF THIS HUGE BASIN WHICH CONTAINS YOUNGER SEDIMENTS WHICH ARE KNOWN TO CONTAIN OIL AND GAS ELSEWHERE ON THE SLOPE, WHERE STRUCTURAL TRAPS ARE SEEN TO EXIST. ONE SURFACE EXPRESSION OF THIS STRUCTURAL STYLE IS THE MARCH ANTICLINE, WHICH EXCEEDS 50 KM. IN LENGTH.

SECOND, THE RESERVOIR CHARACTERISTICS OF THESE ROCKS ARE NEAR THE IDEAL WITH SUPERB POROSITIES AND PERMEABILITIES.

THIRD, THE SOURCE ROCKS BELIEVED TO BE RESPONSIBLE FOR THE OIL OF PRUDHOE BAY OUTCROP WITHIN THE RANGE IN THE SADLEROCHIT MOUNTAINS, AND THE YOUNGER SEQUENCE CONTAINS HIGHLY ORGANIC HOLES.

FOURTH, ONE MUST ADMIT THAT THERE IS AN UNDEFINED POTENTIAL IN THE OLDER ROCKS FOR A PRUDHOE BAY TYPE OF ACCUMULATION.

FIFTH, THREE OIL SEEPS AND TWO OUTCROPS OF OIL-STAINED SANDSTONE ADD SIGNIFICANCE TO THE OIL AND GAS POTENTIAL.

IN ADDITION, SEISMIC DATA OFFSHORE REVEAL NUMEROUS STRUCTURES SIMILAR TO THE MARCH ANTICLINE, AND IT IS LIKELY THAT THESE CONTINUE ONSHORE INTO THE RANGE. ONE OFFSHORE STRUCTURE IS 150 KM. IN LENGTH.

FINALLY, COMMERCIAL QUANTITIES OF OIL AND GAS HAVE BEEN DISCOVERED TO THE EAST BY CANADA IN GEOLOGICALLY SIMILAR TERRAIN, AND DISCOVERIES HAVE BEEN MADE TO THE EAST AT FLAXMAN ISLAND AND POINT THOMSON.

THUS ALL THE ELEMENTS NECESSARY TO ENCOURAGE FURTHER EXPLORATIONS ARE PRESENT: SUPERB RESERVOIR CHARACTERISTICS, SOURCE ROCKS, AND STRUCTURES WHICH MAY HAVE TRAPPED OIL AND GAS IN BOTH THE YOUNGER AND OLDER ROCKS.

THE STATE OF ALASKA IS AS CONCERNED ABOUT THE ENVIRONMENTAL IMPACT ON THIS REGION AS IT HAS CONSISTENTLY BEEN ELSEWHERE IN THE STATE. THE EXPLORATION PHASE CAN BE DONE WITH NO SUBSTANTIAL SHORT OR LONG RANGE IMPACT AS HAS BEEN DEMONSTRATED IN NPR-A. SEISMIC SURVEYS CONDUCTED IN THE WINTER MONTHS ON FROZEN, SNOW-COVERED GROUND CAN BE ACCOMPLISHED WITHOUT LEAVING A TRACE. THIN, NON-PERMANENT DRILLING PADS CAN BE REMOVED AND RESEEDED, ALLOWING FOR THEIR DISAPPEARANCE WITH 10 YEARS. GRAVEL AIRSTRIPS WILL NOT BE NEEDED FOR EXPLORATORY DRILLING CONDUCTED DURING THE WINTER. SAND AND GRAVEL RESOURCES NEEDED FOR DRILLING PADS ARE ABUNDANT IN THE NUMEROUS BRAIDED STREAMS OF THE AREA AND CAN BE OBTAINED WITHOUT DISTURBING THE STREAM ITSELF. WATER, THE STATE'S MOST PRECIOUS RESOURCE, CAN BE OBTAINED FROM LAKES AND STREAMS ONLY THROUGH COMPLIANCE WITH THE STATE'S RIGID WATER APPROPRIATION LAWS AND REGULATIONS. FINALLY, THE CARIBOU ARE NOT FOUND IN THIS AREA DURING THE WINTER MONTHS WHEN THE EXPLORATORY PHASE WILL BE CARRIED OUT.

THE DEVELOPMENT PHASE, IF OIL AND GAS ARE DISCOVERED, IS OBVIOUSLY MORE PROBLEMATIC. WE HAVE, FORTUNATELY, TWO MODELS IN THE STATE FOR REFLECTION AND OBSERVATION. THE FIRST IS THE SWANSON RIVER FIELD IN THE KENAI MOOSE RANGE, AN EXISTING UNIT OF THE REFUGE SYSTEM, AND WHICH IS COMMONLY CITED BY BOTH ENVIRONMENTALISTS AND DEVELOPERS AS A MODEL OF HOW OIL PRODUCTION CAN TAKE PLACE WITH MINIMAL EFFECT ON THE ENVIRONMENT.

MORE RELEVANT TO THIS DISCUSSION IS THE SECOND MODEL, NAMELY, PRUDHOE BAY. I LEAVE JUDGMENT ON BOTH OF THESE AREAS TO EXPERTS MORE QUALIFIED THAN I. I WOULD POINT OUT, HOWEVER, THAT WHILE THE EXPLORATION PHASE WILL INVOLVE ALL OF THE COASTAL PLAIN OF THE RANGE (PERHAPS 2 DOZEN WELLS), THE DEVELOPMENT PHASE WILL INVOLVE ONLY A VERY SMALL PERCENTAGE OF THE AREA.

FOR EXAMPLE, FOR PRUDHOE BAY, 45,000 SQUARE MILES WERE INVOLVED IN THE EXPLORATION PHASE, BUT ONLY 400 SQUARE MILES ARE INVOLVED IN PRODUCTION.

I WILL CONCLUDE MY TESTIMONY WITH SEVERAL MISCELLANEOUS THOUGHTS:

1) IF EXPLORATION IS CONDUCTED IN THE ARCTIC WILDLIFE RANGE, WHETHER BY INDUSTRY OR GOVERNMENT, PROVISIONS SHOULD BE MADE FOR INVOLVING THE STATE OF ALASKA IN THE PROCESS. INFORMATION OBTAINED ONSHORE WILL BE INVALUABLE TO THE STATE'S ASSESSMENT OF THE RESOURCE POTENTIAL WITHIN THE STATE'S SUBMERGED LANDS ADJACENT TO THE RANGE. IN TURN, THE FEDERAL GOVERNMENT WOULD BENEFIT FROM INFORMATION OBTAINED BY THE STATE.
2) CONSIDERATION SHOULD ALSO BE GIVEN TO INSURING THAT THE STATE HAS ACCESS TO THE AREA OF STATE SUBMERGED LANDS OFF THE ARCTIC WILDLIFE RANGE, SURROUNDED AS IT IS BY ICE TO THE NORTH AND THE RANGE TO THE SOUTH. PROVISIONS FOR ACCESS ELSEWHERE IS AN ESSENTIAL COMPONENT OF LEGISLATION AFFECTING ALASKA'S RESOURCES.
3) IF EXPLORATION OF THE RANGE OR OTHER WILDLIFE AREAS OF THE STATE IS PERMITTED, I WOULD ENCOURAGE THE COMMITTEE TO PROVIDE FOR ADEQUATE HYDROLOGIC INVESTIGATIONS. WATER IS OUR MOST BASIC RESOURCE, AND MUCH OF ALASKA IS A DESERT. YET IT IS THE ONE RESOURCE ABOUT WHICH WE HAVE THE LEAST KNOWLEDGE FOR DECISION MAKING.

4) PERHAPS AS MUCH AS 50% OF THE NATION'S COAL RESOURCES CAN BE FOUND ON THE NORTH SLOPE. ESTIMATES RANGE GREATLY, AGAIN BECAUSE OF THE SCANTY DATA BASE. AS MANY AS 3.3 TRILLION TONS HAVE BEEN SUGGESTED BY THE USGS. ASSUMING 3 BARRLES OF OIL IS THE BTU EQUIVALENT OF 1 TON OF COAL, A CONSERVATIVE ENERGY RESOURCE EQUIVALENT OF 3 TRILLION BARRELS OF OIL IS PRESENT ON THE NORTH SLOPE. THIS FIGURE IS GREATER THAN THE OIL RESERVES OF THE ENTIRE WORLD. STUDIES SHOULD INCLUDE AN EVALUATION OF THIS IMMENSE ENERGY RESOURCE.

THANK YOU.

GULF OF ALASKA TERTIARY PROVINCE	≈ 25
YAKATAGE BASIN	0
MIDDLETON BASIN	
BETHEL BASIN	1 DRY, 2 CORE TESTS
TRINITY BASIN	0
BRISTOL BAY BASIN	14 ONSHORE
ST. GEORGE BASIN	1 STRATIGRAPHIC
ZHEMCHUG PROVINCE	0
CENTRAL CHUKCHI PROVINCE	0
HOPE BASIN	0
HORTON BASIN	0
ST. MATTHEW BASIN	0
YUKON-KANDIK BASIN	3 DRY
TANANA BASINS	1 DRY
MINCHUMINA BASIN	0
COPPER RIVER BASIN	≈ 8-10 DRY
SUSITNA BASIN	1
COOK INLET BASIN	NUMEROUS
HOLITNA BASIN	0
KODIAK SHELF	6 STRATIGRAPHIC
NAVARIN BASIN	0
SELAWIK BASIN	2 DRY
ANADYR BASIN	0
SHUMAGIN SHELF	0

The United States Geological Survey and the State of Alaska Geological Survey released a geological report 79-6634 Friday, (11/30/79). The report contains new geological information which reinforces the conclusion held by most industry and government geologists that the Arctic Wildlife Range has the highest potential for oil and gas of onshore Alaska. The data are particularly timely because the classification of the Arctic Wildlife Range is a big issue in the Alaska lands debate in Congress.

The report presents data collected by the USGS and State Geological Survey on the North Slope of Alaska during July of 1979. A subsequent interpretive report is planned for release during the spring of 1980. Geochemical data confirm the widespread presence of hydrocarbons in rocks of the Range. Data concerning porosity and permeability confirm the presence of reservoir rocks. Paleontological data will assist in determining the age of both source and reservoir rocks, a factor important in understanding the timing of oil and gas generation and migration.

Dr. Ross G. Schaff, State Geologist for Alaska (Director of the State Geological and Geophysical Surveys) commented on the importance of geologic information from the Arctic Wildlife Range:

> "During the Alaska lands debate, many speculative statements have been made about the oil and gas potential of the Arctic Wildlife Range. These statements, by necessity, have been based on an extremely scanty data base, as is much of the debate about Alaska's mineral and energy resources. Specific statements on reserves or the distribution of these

resource - such as 95% of the Alaska energy resources are outside specific boundaries - have been misleading to the public and their representives in Congress. The data presented in this report are important because they are recent, timely, and can provide some basis of fact for continued debate."

Schaff further summarized the circumstantial evidence surrounding an understanding of the Range's oil and gas potential:

"First, no data exists to confirm or deny the presence or absence of a Prudhoe Bay type of accumulation. A previous report by the USGS about the Range (OFR 78-489), makes this very clear. This possibility still exists.

"Second, the geology of the Arctic Wildlife Range is unique to the North Slope in that the rocks known to contain hydrocarbons elsewhere within this petroleum province have been folded and faulted into structural traps, such as the Marsh Creek Anticline, a large structure visible at the surface.

"Third, recent discoveries in the MacKenzie River delta region of Canada in similar geologic terrain are very large (Dome Petroleum Ltd. estimates reserves of this region at 250-320 trillion cubic feet of gas with 30-40 billion barrels of oil).

"Fourth, oil and gas seeps within the Range itself must be considered a positive factor in assessing the potential of the Range.

"These factors and the data of this most recent report, when combined with the July 31, 1979 statement of the Interior Department's Office of Minerals Policy and Research Analysis that there is a 25% probability that only 12.29 billion barrels of oil are in place to the west in National Petroleum Reserve, Alaska (NPR-A), suggest that exploration efforts should also be focused on the Arctic Wildlife Range.

"The evidence at hand, while neither confirming nor denying the existence of large oil and gas resources, strongly supports the conclusion held by experienced North Slope geologists that the Arctic Wildlife Range has the highest oil and gas potential in the United States."

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MEMO TO: The Honorable Terry Miller
Lieutenant Governor

FROM: John W. Katz
Special Counsel

SUBJECT: Alaska Lands Legislation

DATE: December 12, 1979

For your information and use, I am enclosing copies of a comparative summary of the Udall-Anderson bill (H.R. 39), the measure recently reported by the Senate Energy Committee (formerly S.9), and existing law. The latter point of comparison was included so that you can assess the three non-judicial alternatives which currently exist.

The summary is the product of a cooperative effort involving my staff and the staffs of each member of the Congressional delegation. It is my understanding that each staff concurs in the accuracy of the analysis which is presented.

If you or members of the Blue Ribbon panel have any questions concerning the subject matter or the accompanying enclosure, please let me know.

COMPARATIVE SUMMARY

Alaska Lands Bill

The following is a comparative summary of the major Alaska lands proposals pending before Congress and their relationship to existing land status. This document is designed to compare and to contrast the changes in existing laws and regulations effected by S.9, as reported out of the Senate Energy Committee in October of 1979, and H.R. 39, the Udall-Anderson substitute bill passed by the House in May, 1979.* These two bills are representative of the legislative alternatives that might be passed by Congress and implemented to replace National Monuments proclaimed by the President, executive withdrawals made by the Secretary of the Interior, and the existing laws and regulations that accompany these monuments and withdrawals. Comparison of the provisions of "S.9," "H.R. 39," and "Monuments/ Executive Withdrawals" (existing law), is made by reflecting each of the above alternatives in light of six areas of major concern: (1) conveyance of State and Native lands; (2) access and transportation; (3) development of high-value commodity resources; (4) wildlife management; (5) sport hunting; (6) general management provisions; and (7) geographic areas. Any improvements or failings in the two legislative proposals are best demonstrated when examined in contrast with existing laws which are applicable to the seven major areas of concern expressed above.

I. STATE AND NATIVE LANDS

A. State Selections

Under the 1958 Alaska Statehood Act, Alaska was granted a total of 103.4 million acres of land to support the costs of Statehood and to create an economy that would sustain the State.

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*While the Udall-Anderson bill differs in some respects from S.222 and the Tsongas Substitute, these differences (except for relatively small variations in the acreage figures and for relatively minor changes noted elsewhere in the text) are not germane to this analysis. Thus, it is fair to say that the geographic designations and management provisions of all three bills are virtually the same in their impact.

This grant of lands remains largely unfulfilled. Section 17(d)(2) of the Alaska Native Claims Settlement Act provided for identification of lands within (d)(2) withdrawals which the State was interested in selecting.

Existing law (in-place executive withdrawals and existing regulations) and pending bills have three major impacts on State lands: (1) impact on lands already owned or selected by the State of Alaska; (2) impact on lands the State of Alaska selected as "interest lands" and selected in November, 1978 to fulfill the Statehood Act land entitlement; and (3) effects on conveyance of selected lands to the State.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) The withdrawal boundaries encompass approximately 7 million acres of existing valid State lands and selections as inholdings.

(b) Approximately 12 million additional acres identified by the State as "interest lands" and selected in November, 1978, are unavailable as a result of the monuments and executive withdrawals. High priority selections located in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake areas are denied to the State by the withdrawals.

(c) To date, the State has received effective title to only 37.5 million acres or approximately one-third of its Statehood entitlement--the State is still entitled to receive another 65 million acres. In an attempt to correct this situation, the Interior Department has begun a program to expedite conveyance of uncontested State selections. However, even under this program, it will be years before the State is finally vested with equitable title to the lands it has selected. Moreover, numerous regulations governing State selections are outdated, unworkable, or do not reflect situations created long after Statehood by later laws, such as the Alaska Native Claims Settlement Act (ANCSA) or the Federal Land Policy and Management Act (FLPMA). Many of these problems cannot be corrected by administrative action.

2. H.R. 39/Udall --

(a) Its unit boundaries include approximately 4 million acres of existing valid State lands and selections as inholdings.

(b) Approximately 12 million additional acres of "interest lands" are denied to the State by the bill. High priority selections denied to the State are located in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake areas.

(c) No provision of the bill expedites conveyance of the remaining 65 million acres of State land selections. The "conveyance" title in H.R. 39 merely reconfirms State selections which

have already been conveyed to the State or previously recognized as valid. In addition, it contains no provision conveying any of the "interest lands." Lastly, it does not amend existing selection conveyance regulations nor solve certain problems not foreseen at Statehood.

3. S.9 as Reported --

(a) Virtually all existing valid State lands and selections are excluded from its unit boundaries.

(b) Approximately 5 million acres of "interest lands" are included in the boundaries of conservation units and denied to the State. However, high priority selections in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake are conveyed to the State. Additionally, approximately 25 million acres of other "interest lands" are conveyed.

(c) S.9 includes a comprehensive land conveyance title which effectuates legislative conveyance of existing State selections including those "interest lands" selections filed in November, 1978 and not in conflict with S.9 units. It also contains provisions which amend existing State selection regulations and clarify the relationship between State selections and present and future administrative actions. Following the passage of S.9, nearly 95 percent of the State's entitlement will have been legislatively conveyed to the State of Alaska.

B. Native Lands

1. Monuments/Executive Withdrawals (Existing Law) --

In 1971, ANCSA granted 44 million acres to Native corporations in Alaska. Since that time, only 25 percent of the land entitlement has been conveyed to the Natives. Currently, the administration has announced a program to expedite conveyance of lands to the Native corporations.

2. H.R. 39/Udall --

It would instantly convey to the appropriate Native corporation the core township surrounding the Native village. In addition, the bill includes provisions designed to clarify ambiguities and solve problems pertaining to certain sections of ANCSA. Finally, H.R. 39 includes a number of provisions which authorize site specific selections for certain corporations and effect land exchanges and agreements worked out between various Native corporations, the Federal government, and the State.

3. **S.9 as Reported** --

The bill provides for immediate conveyance of core townships to Native corporations. However, the immediate conveyance procedure is optional, enabling those corporations which are currently being conveyed land under existing law to avoid the confusion of simultaneous legislative conveyance. In addition, the bill established an expedited procedure for conveying the remaining Native lands. Provisions regarding the implementation of ANCSA land exchanges are identical to those contained in H.R. 39.

II. TRANSPORTATION & ACCESS

There are three distinct areas of law encompassed by this heading:

(a) Major rights-of-way across Federal conservation units in the form of highways, pipelines, railroads, etc.;

(b) Access to private, State or Native lands located within Federal units; and

(c) Special access for traditional activities (e.g., hunting, trapping, rural travel, etc.) in conservation units requiring the use of airplanes, snowmobiles, and motorboats.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) Approval of highways, pipelines, railroads, and other transportation systems requiring rights-of-way over Federal land now requires time consuming and complicated determinations by the Secretary of Transportation and/or other agencies in conjunction with the Secretary responsible for administering the Federal lands over which the right-of-way is sought. In some cases, Congressional approval is required, although issuance of a right-of-way is usually governed by statute. The combination of decision-makers and the decision-making procedures vary with the type of transportation right-of-way applied for and the differing land designations which the proposed system will affect.

Under existing law, the land-managing Secretary frequently has the discretion to deny rights-of-way across conservation system units based upon a single criterion: the compatibility of the proposed right-of-way with the purpose of the affected land designation. Additionally, National Environmental Policy Act requirements and other statutes and regulations often demand long studies, lengthy decision-making processes, and judicial review. Moreover, if an application for a right-of-way is denied, the aggrieved applicant must prove that the Secretary acted in an arbitrary and capricious fashion to obtain judicial review.

This standard is a nearly insurmountable barrier which makes it extremely difficult to get courts to reverse Secretarial decisions.

(b) Access to inholdings within conservation system units is not well-defined in existing law. Recent Justice Department opinions assert that no right of access to inholdings within Federal lands is required by statute or common law. (Note: This does not apply to specific statutory rights granted to holders of mining claims.) The prevalent Federal view regards access to inholdings as a discretionary policy decision rather than a right.

(c) Presently, most traditional modes of access are permitted under the regulatory regime which governs the withdrawals in Alaska. However, there is no statutory guarantee that such access to areas shall be permitted in the future as the Secretary has virtually unfettered discretion to deny such access.

2. H.R. 39/Udall --

(a) Rights-of-way for transportation systems are governed primarily by existing law. In cases in which there is no authority to issue a right-of-way, the Secretary can recommend that the right of-way be issued and his recommendation will be considered by Congress. Applicants may also appeal to the President in cases where a land-managing Secretary denies a right-of-way permitted by existing law. In such cases, the President must make a determination, and that decision is subject to Congressional review.

(b) Access for inholders within or "effectively surrounded" by conservation system units is guaranteed but subject to reasonable regulation in H.R. 39. Inholders are granted assured access for economic and other purposes. Any party effectively surrounded shall have feasible access based on assessment of various environmental and economic factors.

(c) H.R. 39 provides for traditional modes of access via airplane, snowmobile, or motorboat. This provision contemplates that such modes of access should be permitted as a means of pursuing traditional activities on conservation system units.

3. S.9 as Reported --

(a) S.9 rewrites existing law and provides a comprehensive transportation title designed to streamline the various procedural requirements involved in obtaining rights-of-way for transportation or utility systems across Federal lands. The process has five major features: (i) The State and the Secretary of Transportation are involved in a special transportation planning process which impacts on the issuance of rights-of-way; (ii) The Secretary is directed to render decisions on applications within a specified

period of time; (iii) Decisions shall be made pursuant to nine specified criteria, including economic feasibility and environmental compatibility; (iv) Certain Secretarial decisions on rights-of-way are subject to Congressional review; and (v) All Secretarial decisions to deny a right-of-way are subject to expedited judicial review.

(b) Access for inholders within or effectively surrounded by conservation system units is guaranteed but subject to reasonable regulation in S.9. Inholders are granted assured access for economic and other purposes. Any party effectively surrounded shall have feasible access based on assessment of various environmental and economic factors. This bill emphasizes economic feasibility although the most economically feasible access is not mandated in every case.

(c) S.9 broadens the concept adopted in the House bill for ensuring traditional access. This access is subject to reasonable regulation, but the Secretary can prohibit access only where he can demonstrate that significant resource damage is being caused by access, and after he has held a hearing in that area affected.

III. HIGH COMMODITY RESOURCES

High-value commodity resources in Alaska impacted by the withdrawals and the pending bills include: (a) oil and gas, (b) hardrock minerals, and (c) timber products. The following outlines the effects of the status quo and the proposals on these resources.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) These withdrawals encompass approximately 45 million acres of land with oil and gas potential. Under existing law, those areas within "emergency withdrawals" may be leased for exploration and developed at the Secretary's discretion; oil and gas activities are barred in the Monuments. In addition, areas recommended by the Interior Department for Wilderness (e.g., Arctic Range, Kenai Moose Range, etc.) are administratively closed to oil and gas exploration and development.

(b) Regarding hardrock minerals, two specific impacts are examined: (i) Impact on major existing mineral discoveries--five of the nine major discoveries (Picnic Creek, Mt. Prindle, Orange Hill, Greens Creek, and the U.S. Borax) are included in Monuments which preclude development. Moreover, access to the Arctic find in the Ambler district is blocked by the "boot" of the Gates of the Arctic Monument; and (ii) Impact on Mineral Districts--areas rated important for mineral development, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are withdrawn.

(c) Regarding Alaska's timber economy, approximately 6 million acres of de facto Wilderness are created within the Tongass National Forest. The withdrawal of these lands will reduce the annual allowable timber harvest to 360 million board feet per year (MMBF/YR) and eliminate up to 2,000 existing timber-related jobs.

2. H.R. 39/Udall --

(a) The units in the bill encompass nearly 40 million acres of land with oil and gas potential (not including NPRA). The Arctic Wildlife Range is designated Wilderness which bars exploration and possible future development. The National Petroleum Reserve - Alaska (NPRA) is classified as a Wildlife Refuge, but is to be opened for oil and gas leasing if the Secretary deems such leasing compatible with the Refuge purposes. However, leasing in NPRA shall not be conducted per existing law. Exploration and development are divided, and separate Federal approval would be needed before development of an oil discovery could proceed. Existing law requires no such two-step approval when one obtains an onshore oil and gas lease.

(b)(i) Four of the nine major discoveries are included within Parks, Preserves, Wilderness areas, Refuges, etc., (Mt. Prindle, Orange Hill, Greens Creek, and U.S. Borax*). While these designations are theoretically subject to valid existing rights, experience clearly indicates that it is nearly impossible to develop major mines within such areas; (ii) Areas rated important for mineral development, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are closed to mineral entry and development of existing claims effectively barred.

(c) H.R. 39 designates 5.9 million acres of Wilderness units within the Tongass Forest in Southeast Alaska. These wilderness designations will reduce the allowable cut to 360 MMBF/YR. A harvest reduction of this magnitude will eliminate up to 2,000 existing timber-related jobs. In an attempt to offset this employment impact, the bill authorizes an increased appropriation of $8 million annually for improved forestry practices to increase timber yields on non-wilderness lands. However, even if these extra funds are appropriated each and every year, the cut can only be raised to 410 MMBF/YR, which is below harvest levels.

3. S.9 as Reported --

(a) Conservation units encompass approximately 25 million acres of land with oil and gas potential. The Arctic Wildlife Range is

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*The Tsongas Substitute doe contain provisions to permit development of the Borax molybdenum discovery, but the wilderness boundary is much closer to the claims and may create regulatory problems during development.

excluded from Wilderness and is subject to a five-year oil and gas study program to assess its oil and gas potential and to determine the conflicts, if any, between oil development and wildlife resources. The oil study is limited to geophysical and seismic work with Congressional approval required prior to any drilling or development work. Also, on the North Slope the status of the NPRA is unaffected by the bill.

In addition, the Secretary is directed to establish a program to facilitate oil and gas leasing on non-North Slope Federal lands outside conservation system units. Moreover, the Secretary is required to act on applications for oil and gas leasing on Wildlife Refuges (not designated as Wilderness) within a specified period of time.

Leases are to be issued pursuant to an environmental compatibility finding. However, the Secretary has the burden of proof of documenting the basis for denying an application--a change from existing law.

(b)(i) All nine of the major mineral discoveries are excluded from land designations which prevent development. However, three of the discoveries are in units where mining is specifically permitted but not guaranteed. In addition, a developed right-of-way across the Gates' "boot" is guaranteed to provide access to the Picnic and Arctic finds located in the Ambler district.

(ii) Areas rated important for minerals, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are transferred to State ownership or designated as multiple use areas and may be open to future mineral development.

In addition, S.9 provides a grace period for claim validation affecting holders of mineral claims located in BLM Conservation Areas and National Recreation Areas. Those holding claims within withdrawn units would be granted a grace period for perfecting their claims if such lands are later reopened to mining.

(c) S.9 designates 4.3 million acres of Wilderness within the Tongass Forest. It also creates 2 million acres of Special Management Areas (SMA's). Although timber within the SMA's is included in the Annual Allowable Cut calculation, no harvest can occur unless authorized by Congress after the ten-year study period. During the ten-year period, the Secretary of Agriculture is directed to monitor the timber industry and to report to Congress if the 520 MMBF/YR goal cannot be met without harvesting in the SMA's. SMA status is to be reviewed at the end of the ten-year period. The bill also authorizes $12 million to improve timber practices and to aid in the harvest of marginally-economic timber. If these funds are available, the non-wilderness portions of the Forest will provide a cut of 520 MMBF/YR--without the funds the harvest will be 430 MMBF/YR. If cutting is never permitted

in the SMA's during the 100 year rotation and if no extra monies are appropriated, the cut will be reduced to 360 MMBF/YR at some point in the 100 year cycle.

IV. WILDLIFE MANAGEMENT

Wildlife management deals with the traditional relationship between the State of Alaska and the Federal government regarding wildlife management, particularly as it relates to State management of wildlife to insure adequate provisions for sport and subsistence uses.

1. Monument/Executive Withdrawals (Existing Law) --

(a) No provision affirming the traditional roles of the Federal and State governments is included among proposed regulations governing Monuments or other executive withdrawals.

(b) The proposed regulations governing the Monuments created by President Carter track the approach taken in the Udall bill, and in so doing the regulations provide for Federal oversight which means that after consulting with the State and making certain findings, the Secretary may involve himself in daily management of fish and game resources.

(c) Subsistence hunting is permitted in all Monuments except the Kenai Fjords units (sport hunting is prohibited in Park Service Monuments).

2. H.R. 39/Udall* --

(a) No provision affirming the traditional role of the State and Federal governments regarding wildlife management is included in the bill.

(b) H.R. 39 provides for a subsistence preference on Federal lands when a limitation on taking is required. The Secretary is directed to oversee State implementation of the subsistence preference and to notify the State of changes which he determines are necessary in that implementation. If the State does not make these changes, the Secretary shall close the area affected to all but subsistence uses. This may necessitate the setting of methods and means, bag limits, season lengths, and harvest quotas--all of which are traditional State prerogatives.

3. S.9 as Reported --

(a) A provision specifically reaffirming the traditional relationship between the State and Federal governments regarding wildlife management is included in the bill.

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*The Tsongas Substitute more closely tracks S.9 in this area.

(b) S.9 provides for a subsistence preference, based on existing State law, when a limitation on taking is required. The Secretary is authorized to monitor State implementation of the subsistence preference. At the request of a local or regional advisory board, the Secretary shall ask for changes in the State's program if he/she makes specific findings that the subsistence preference is not being satisfied. The Secretary, after making certain findings, shall ask for judicial review of the State's program, but it shall only be limited to the specific regulation involved--not on a general basis. However, judicial action is limited only to that regulation involved and for the length of that regulation, which in many instances is only for an annual basis.

V. SPORT HUNTING

A. Land Closed to Hunting

1. Monuments/Executive Withdrawals (Existing Law) --

The existing withdrawals prohibit sport hunting on 42 million acres of Federal lands. These withdrawals include the Wrangells-St. Elias, Gates of the Arctic, Mt. McKinley additions, Katmai additions, and a number of other important sport hunting areas.

2. H.R. 39/Udall --

The House version of H.R. 39 bars sport hunting on 27 million acres of Federal land, including the Gates of the Arctic area and major portions of the Wrangells-St. Elias, Mt. McKinley, and Katmai additions.

3. S.9 as Reported --

The bill closes 22.2 million acres of Federal lands to sport hunting. However, sport hunting is allowed in major portions of the Gates of the Arctic, Wrangells-St. Elias, Katmai, and Mt. McKinley additions.

The following chart demonstrates the major differences among the three measures regarding which specific areas are open or closed to sport hunting:

ACREAGE OPEN TO SPORT HUNTING
(In Millions of Acres)

	S.9	H.R. 39	Monuments/ Executive Withdrawals
Gates of the Arctic	3.2	-0-	-0-
Wrangells	4.3	3.3	-0-
Mt. McKinley	1.2	0.4	-0-
Katmai	0.4	0.2	-0-
TOTAL -	9.1	3.9	-0-

B. Other Hunting Provisions

1. Monuments/Executive Withdrawals (Existing Law) --

(a) Since there is no sport hunting allowed in the Monuments, there are no special regulations to permit hunting-related activities.

(b) Since there is no sport hunting allowed in the Park Service Monuments, the withdrawal regulations do not address the status of the hunting guides now operating in these areas. On non-Monument withdrawals, guiding remains subject to State regulation.

2. H.R. 39/Udall --

(a) There are no provisions which specifically permit hunting-related activities to continue in Preserves, Refuges or Wilderness areas.

(b) Subject to stringent criteria, guided hunting and trapping can continue for a ten-year period within National Parks & Monuments.

(c) Sport hunting is not a statutorily-designated use in the Refuges designated in the bill.

3. S.9 as Reported --

(a) The bill contains provisions ensuring that hunting-related activities, such as the construction of campsites, location of equipment caches, etc., shall be permitted within Preserves, Wilderness areas, Refuges, and other areas.

(b) The bill provides that the State of Alaska shall continue to regulate the guide industry. Additionally, there is no grandfather clause for guides included in Parks & Monuments.

(c) Sport hunting is statutorily recognized as a use for which Wildlife Refuges designated in the bill are to be managed.

VI. GENERAL MANAGEMENT PROVISIONS

In addition to those management provisions discussed in earlier sections of this comparative summary, S.9 and H.R. 39 make other important modifications to existing law. This section analyzes some of the most significant modifications of existing laws made by the two bills and how the modifications would affect future land use and management in Alaska.

A. Condemnation/Land Acquisition

1. Monuments/Executive Withdrawals (Existing Law) --

The existing laws which govern the National Monuments and executive withdrawals generally empower the land-managing Federal agencies with great discretion to acquire private inholdings on adjacent lands. Another issue involves the ability of the Federal government to condemn State inholdings and Native corporation inholdings without the consent of these entities. This issue is not clearly resolved in existing law and litigation is a likely possibility.

2. H.R. 39/Udall --

H.R. 39 provides immunity from involuntary condemnation for State lands and lands granted pursuant to the Alaska Native Claims Settlement Act (ANCSA). Under the bill, such lands cannot be condemned merely for the purposes of adding to a conservation system unit. State owned lands within or contiguous to conservation system units may be acquired by exchange. Condemnation of other private inholders is subject to Secretarial discretion.

3. S.9 as Reported --

The bill protects inholdings owned by the State, Native corporations and private individuals receiving title under ANCSA or the Native Allotment Act from involuntary condemnation for purposes of adding to a conservation system unit. Other private landowners are provided various degrees of protection under the bill. In each case, the Secretary is required to make a determination that the inholding is causing significant detriment to the purpose of the conservation system unit and must make a good faith effort to exchange other Federal lands for the inholding prior to undertaking condemnation and purchase procedures.

B. Cabins

1. Monuments/Executive Withdrawals (Existing Law)--

A sub-issue is that of cabins located on Federal (public) lands which have been closed to entry. In many instances, occupants of such cabins are legally trespassers and could be evicted under existing Federal law. However, proposed Monument regulations permit continued occupancy of some cabins in specified circumstances. Any permitted occupancy shall be strictly constrained to one and five year occupancy permits.

2. H.R. 39/Udall --

It does not deal with the problem of cabin occupancy. Presumably, cabin occupants would be treated as trespassers under existing law.

3. S.9 as Reported --

It codifies and improves upon the approach proposed in the National Monument regulations. Long-time occupants would be permitted to retain the use of their cabins so long as such use does not significantly impact the purpose of the conservation system unit. Occupancy is insured, subject to compliance with certain criteria, through the lifetime of the principal occupant or the continuous occupancy by the last surviving member of the immediate family currently living in the cabin.

C. Wilderness Management

1. Monuments/Executive Withdrawals (Existing Law) --

Under existing law, the Secretary may determine, subject to the provisions of the Wilderness Act, what uses may be permitted as compatible with Wilderness designations.

2. H.R. 39/Udall --

H.R. 39 authorizes very limited fisheries and acquaculture activities in Forest Wilderness only. However, fisheries enhancement is barred on approximately 61 million acres of other Wilderness. Existing and new public use cabins would be allowed in Forest Wilderness units, but would be prohibited on 61 million acres of Wilderness under other management systems.

3. S.9 as Reported --

S.9 permits a broader range of aquaculture, fisheries enhancement activities, and facilities on all Wilderness areas with the specific exception of 6.1 million acres of National Park Service Wilderness. Existing public use cabins would remain and be maintained in all Wilderness areas under this bill, and new cabins may be constructed as necessary for the protection of public health and welfare.

D. Exemption from Wilderness Review

1. Monuments/Executive Withdrawals (Existing Law) --

Existing law directs the Secretary of the Interior to apply Section 603 of the Federal Land Policy and Management Act to review each 5,000 acre tract of roadless Federal land in Alaska for possible Wilderness designation. In the interim, all affected lands would be managed as de facto Wilderness.

2. H.R. 39/Udall --

It does not exempt or lessen the burden on the Secretary to complete Wilderness reviews per Section 603 of all roadless areas on Federal lands in Alaska.

3. S.9 as Reported --

Section 1320 statutorily exempts Alaska from the mandatory Wilderness review provisions of Section 603. The Secretary retains discretionary power to recommend Federal lands for Wilderness designation, but is no longer required to do so.

Any recommendations for Wilderness can be implemented only through Congressional action.

E. Revocation and "No More"

These concepts refer respectively to:

(a) The revocation by Congress of the National Monuments and executive withdrawals imposed on Alaska in November and December of 1978;

(b) The requirement that any future Federal withdrawals for conservation system units in Alaska be granted only by act of Congress and not by executive or administrative action; and

(c) That the bill contain a Congressional policy finding that no more land withdrawals for conservation system units are needed.

1. Monuments/Executive Withdrawals (Existing Law) --

Obviously, imposition of these withdrawals in late 1978 created the need for such provisions.

2. H.R. 39/Udall --

H.R. 39 does not provide for either the revocation or the "no more" concept.*

3. S.9 as Reported --

S.9 revokes the National Monuments and executive withdrawals in the face of Congressional designation made in the bill. Thus, any lands currently within the monuments or withdrawals which are not within a conservation system unit established or expanded by S.9 are returned to the public domain or conveyed to the State, if selected.

The Senate Committee bill does not contain a provision requiring that future Federal withdrawals in Alaska for conservation system units be created only by act of Congress, but it does contain a policy finding that no more land withdrawals for conservation system units are needed.

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*The Tsongas Substitute has a revocation clause but replaces the withdrawals with H.R. 39 units and boundaries.

[redacted]

ALASKA LANDS PROPOSAL

LAND DESIGNATIONS:

New Set Asides	mm. acres
Parks	30.2
Preserves	12.9
Natl. Rec. Areas	-0-
Wildlife Refuges	49.8
Forests	3.3
Wild & Scenic Rivers	2.0
Subtotal	98.2

Wilderness	
Existing Parks	7.0
New Parks	22.4
Existing Refuges	13.0
New Refuges	4.0
Existing Forests	5.6
Subtotal	52.0

Total Affected Lands	
New Set Asides	98.2
Existing Areas/Wild.	25.6
TOTAL	123.8

COMPARISON OF SPECIFIC AREAS:	mm. acres
Gates of the Arctic	
Park	8.22
Arctic Wildlife Range	
Existing Refuge	8.8
Addition	9.5
Total	18.3
Wilderness	8.8
Wrangells/Tetlin Complex	
Park	9.6
Preserve	2.5*
NRA	-0-
Refuge	0.8
	12.9

*Includes 2 designated Mineral Management Zones

Yukon Delta Refuge

Refuge	10.6
Misty Fiords	
Wilderness	2.3
	2.3

OIL & GAS:

Arctic Range coastal plain is designated "instant wilderness" along with remainder of unit.

Non-wilderness refuges technically open to leasing per existing law.

Approximately 5 mm. acres of potential oil and gas lands statutorily closed.

STATE LANDS:

6 mm. acres of valid existing Statehood Act lands included as inholdings in new units

12 mm. acres of contested Statehood Act land selections denied to State.

No legislative conveyance provisions.

MINERALS:

Closes 117 mm. acres to mineral entry.

3 of 7 world-class mineral finds identified by Stanford Research Institute are finds included in wilderness areas, Green's Creek, Picnic Creek, & U.S. Borax.

Refuges statutorily closed to mining - a change from existing law, which vests discretion with Secretary of Interior upon a finding of compatibility with refuges' objectives.

65% of highly-favorable mineral areas closed.

SPORT HUNTING:

Closes 30.2 mm. acres to sport hunting.

Closes important hunting areas in Gates of the Arctic, north of Katmai, west of Lake Clark, north Wrangells, etc.

[redacted] & JOBS -
TONGASS FOREST:

5.4 mm. acres of Tongass are designated wilderness and are thereby closed to logging.

Provides 150 mm. board feet (MBF), less than needed to preserve existing job levels. Offset job loss by legislation for $12 mm. annual subsidy to local timber industry.

TRANSPORTATION AND ACCESS:

Relies almost completely on existing law.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

CARIBOU AND OIL

SEPTEMBER 1979

Issue

The continued viability of Alaska's caribou herds concerns Alaskans and other conservationists who recognize that the caribou's well-being basically depends upon its habitat. Arctic Alaska supports large caribou herds and probably contains large oil reserves. The possible impact of oil exploration and development on caribou in Arctic Alaska is at issue.

Background

The question of the potential effects of oil exploration and development vs caribou population welfare has no simple, black or white answers. At present, there are relatively few data on the matter. However, it is important to recognize that exploration and development are two very different considerations in relation to caribou.

Exploration, because it does not require the extensive permanent supporting structures of development, and because restrictions on seasonal activities can be imposed, can probably be accommodated in most circumstances without significant impact.

Development generally involves permanent structures and human activity that may influence caribou behavior, movements and habitat use to some degree, depending on the location and design of the structures, as well as the level of human activity.

The following discussion elaborates on observations concerning the relationship of exploration and development to caribou or reindeer welfare.

Exploration: Right now, there are relatively few data to shed light on the effects of oil exploration on caribou, but there are some Alaskan experiences:

1. Oil exploration in the National Petroleum Reserve-Alaska (NPR-A) in the 1950s over extensive areas, but with little intensive work. Apparently did not preclude growth of the Western Arctic Caribou Herd, which reached 240,000 animals by 1970. The exploration was partly a winter operation, and did not involve the calving area heavily;

2. Exploration of Prudhoe Bay apparently did not preclude caribou use of that area. State studies did not begin until well after initial exploration was done and industry was gearing up for production. Caribou were using the area at that time and still are.

3. Current Federal exploratory programs in the NPR-A do not appear to have interfered with caribou use of the range thus far. However,

[illegible] during spring and summer should be minimal and cautious.

Development: Experience in Scandinavia and Russia suggests that roads, powerlines, railroads, pipelines and reservoirs can permanently discourage reindeer use of some migration routes and associated ranges. Several areas in Eurasia where development occurred are no longer used by reindeer, but a clear casual relationship has not been demonstrated. State studies at Prudhoe Bay show reduced use of the oil field area by cows and calves. Also, fewer caribou in total pass through or use the area, probably because the Western Arctic Herd, part of which sometimes used the area, declined for other reasons during this time. Similarly, studies along the Arctic Slope route of the Trans-Alaska Pipeline show avoidance of the corridor, particularly by cows with calves; traffic and activity have apparently discouraged local range use. In other places, caribou have been seen to turn away from or delay in crossing a road when traffic was heavy or shooting was occurring nearby. Overall, it appears that the level of use of a development structure may contribute more to disturbance of caribou than the structure itself.

On the other hand, over the last 50 years, caribou herds in Alaska have crossed several different roads routinely during their semi-annual migrations. The Nelchina Herd crosses the Trans-Alaska pipeline corridor in an area where it is a new feature paralleling the Richardson Highway, which they have crossed for years. Caribou herds have migrated not only cross roads, holding up traffic, but right through villages. Also, caribou population at Prudhoe Bay, known as the Central Arctic herd, has stayed at about 5,000 animals for 10 years -- since the beginning of development at Prudhoe Bay.

We still have not identified all of the factors that affect caribou movements across either natural or artificial barriers, nor is is clear how some of these factors operate. We do know that insect harassment, weather, seasonal migratory urges, herd size, and the individual caribou's sex and age all influence how tolerant caribou are of natural or artificial objects and disturbances. While some caribou are capable of coping with very unnatural surroundings, as at Prudhoe Bay, their tolerance doesn't guarantee the population's long-term success. The trans-Alaska Pipeline in addition to being a major structure and essentially a permanent fixture, is a 30-year (or more) experiment on the effects of development on caribou welfare; its long-term effects on caribou cannot be firmly predicted now. A possible concern with development in general is that, while a single structure or program may be innocuous, an accumulation of developments and their associated uses may be harmful.

The State of Alaska's Position

The State of Alaska has the greatest interest in ensuring the welfare of caribou in the Arctic because of the caribou's material, scientific, ecological, and/or cultural value to Alaskans, Americans, and to others. At the same time, the State's position is that before making final decisions on various resource use alternatives, including oil and gas reserves, the nature and extent of the resources involved must be known if informed decisions are

to be made. For this reason, the State has supported the concept of baseline studies to determine the characteristics and needs of wildlife, the potential oil and gas reserves, and the relationship of these considerations to possible development modes. Such studies should adhere to stipulations which ensure the environmental integrity of the area involved. The State believes that a program which provides significant new information on the biological and energy resources of Arctic Alaska, and on the possible developmental needs or limitations, would be most helpful to Congress in its deliberations.

A carefully planned resource assessment program, with Congress making the ultimate decision with respect to development, seems far superior to the provisions of the Udall-Anderson bill. The Udall-Anderson bill, by designating the entire Arctic National Wildlife Range as "instant" wilderness, would preclude obtaining any additional information on oil and gas resources. As a consequence Congress would be denied data relating to the most promising unexplored petroleum province on the North American continent. The State of Alaska believes that implementation of a systematic, environmentally sensitive study now could avoid panicky, damaging exploration and possible development during some future petroleum crisis. A planned program seems preferable, and feasible since the chief area of concern is a small part of the Arctic coastal plain within the Arctic National Wildlife Range, and is used by caribou as a calving - post-calving area for only six to eight weeks each summer.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

TO: Honorable Jay S. Hammond, Governor

FROM: John W. Katz, Special Counsel

DATE: April 1, 1980

SUBJECT: Legal Opinion on the Fairness Doctrine

For your review, I am enclosing a copy of the legal opinion which you asked me to obtain relative to the possible application of the Fairness Doctrine of communications law to any broadcast advertising which may be undertaken by the State in connection with the Alaska lands issue.

As you will notice, the opinion concludes that significant problems may exist. Thus, it is likely that many broadcasters would refuse to accept advocacy oriented advertising on an issue as controversial as the pending lands legislation. Those broadcasters which do accept such advertising may feel compelled to provide time, with or without charge, to persons with opposing points of view. These conclusions confirm some of the concerns which we discussed recently with the Lieutenant Governor and Bob Miller.

If I can be of any further assistance in your consideration of the issues discussed in the accompanying opinion, please let me know.

cc: Lieutenant Governor Terry Miller
Avrum M. Gross, Esq.
J. Roger Wollenberg, Esq.
Mr. Jerry Reinwand
Mr. Don Argetsinger
Mr. Bob Miller
Thomas E. Meacham, Esq.
Mrs. Ron Mierzejewski

APR 15 1980

STATE OF ALASKA
OFFICE OF THE GOVERNOR
ANCHORAGE

For your information.

From: John W. Katz
Special Counsel to the
Governor

1666 K STREET, N. W.
WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRING WASH, D. C.
INTERNATIONAL TELEX: 440-239
TELEX: 89-2402
TELEPHONE 202 872-6000

EUROPEAN OFFICE
1 COLLEGE HILL
LONDON, EC4R 2RA, ENGLAND
TELEPHONE 01-236-2401
TELEX: 851 883242
CABLE ADDRESS: WICRING LONDON

April 1, 1980

John W. Katz, Esquire
Special Counsel to the Governor
State of Alaska
338 Denali Street
Anchorage, Alaska 99501

Dear Mr. Katz:

You have advised that the State of Alaska is considering engaging in a paid advertising campaign, in the print media and possibly the electronic media, to publicize its position on legislation currently pending in Congress relating to the regulation and disposition of federally-owned lands in Alaska. You have asked for our views as to the effect of communications law, particularly the Federal Communications Commission's Fairness Doctrine, on such an advertising campaign. You are also interested in the policies of television and radio stations regarding acceptance of such advertising. We provide initially a brief discussion of the Fairness Doctrine and then address the more specific questions you have raised with us.

The Fairness Doctrine establishes a two-pronged obligation designed to insure that the American people are fully informed by the broadcast media on important public issues. Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 377-78 (1969). First, television and radio stations are expected to devote a significant percentage of their operating time to coverage of controversial issues of public importance. Second, when a station presents a viewpoint on a controversial issue of public importance, it must provide reasonable opportunity in its overall programming for the presentation of contrasting points of view on such issues. It is this part of the doctrine that is the usual source of controversy and that is most likely to bear on the State's ad campaign.

When a broadcaster decides to present one side of a controversial issue, the obligation to provide a "reasonable opportunity" for the presentation of contrasting views does not mean that he must give "equal time" to opposing viewpoints. Nor does it mean that any particular person or organization may demand a right to reply or that the opposing view must be presented at a particular time or in a particular format. Rather, the Commission looks to see whether the broadcaster's overall programming reflects a reasonable balance in the presentation of contrasting views. The keystone of the Fairness Doctrine

is preservation of the broadcaster's ability to make editorial judgments as to how best to present the opposing sides of an issue. The Commission will uphold a broadcaster's judgment as long as it is made in good faith and is reasonable. Fairness Primer, 40 F.C.C. 598, 599 (1964).

Turning to your specific inquiries, we assume that the regulation and disposition of federally-owned lands in Alaska is a controversial issue of public importance. The FCC has ruled that acceptance of "editorial" advertising, in which the advertiser presents a position on a public issue, raises the same fairness obligation as would presentation of one side of an issue in a news program or an editorial. Fairness Report, 30 P&F Radio Reg. 1261, 1290-92 (1974). Any station that accepted an advertisement setting forth the State's position on the pending legislation would therefore have an obligation to provide a reasonable opportunity for the presentation of conflicting views. This need not take the form of comparable spot advertising, however; it is only necessary that the broadcaster's overall programming reflect reasonable coverage of the opposing views. Thus, in the Wilderness Society case, 31 F.C.C. 2d 729 (1971), the Commission found that, in effect, a series of ads

on the NBC television network by Standard Oil of New Jersey (ESSO) about development of oil resources in the Arctic took a position favoring the construction of the Trans-Alaska Pipeline. But the Commission held that the ESSO ads were effectively balanced by presentation of opposing views on other NBC programs, particularly the "Today Show."

It is clear that a station may not escape its fairness obligation on the grounds that no one is willing to pay for countervailing ads, or to sponsor a program on which the opposing side is presented. Red Lion Broadcasting Co., supra; Cullman Broadcasting Co., 40 F.C.C. 576 (1963). Thus, it is possible that a station might choose or find itself compelled to meet its fairness obligations by offering free time to opponents of the State's position on the Alaska Lands legislation.

You have advised that the Alaska Lands issue has already been the subject of a substantial volume of discussion in newspapers and other media by the President (who says he has made the issue his first environmental priority), other public officials, and newspaper editorials. That discussion would not give rise to an obligation under the second prong of the Fairness Doctrine to present opposing views on broadcast stations, but might be deemed

to give rise to an obligation under the first prong of the Fairness Doctrine simply to provide balanced coverage of the controversy. Were the State to engage in a print media campaign, the fact that the State has taken print ads would not, in and of itself, be likely to make the Alaska Lands issue one that television and radio stations are required to cover under the first prong of the Fairness Doctrine. In any event, any such obligation would not be the result of the fact that the State had participated in the public discussion of the issue through a print ad campaign; it would be the result of a conclusion based on the sum total of public discussion of the issue by the State and all others.

The fact that a station takes an editorial position on the Alaska Lands bill does not alter the substance of the station's fairness obligations, although the FCC may be inclined to take a harder look where the position being expressed is that of the broadcaster. Though stations usually invite replies from "responsible" individuals, the discretion to decide which individuals to permit to respond, and how to present the response, remains with the station.

Finally, we note that many television and radio stations, as well as the television networks, generally

follow policies of not accepting "editorial" advertisements, i.e., paid statements of positions on issues, except those made in connection with election campaigns. These policies flow, in large part, from the difficulties such advertisements present for broadcasters in meeting their responsibilities under the Fairness Doctrine. The Supreme Court has upheld the right of television and radio stations to adopt these policies, essentially because a system of mandating access would in effect grant to the advertiser a large degree of control over how issues are to be presented, thus intruding on broadcaster discretion under the Fairness Doctrine and the First Amendment. Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. 92 (1973).

In sum, we conclude that a paid broadcasting campaign by the State could trigger Fairness Doctrine obligations which might lead stations to give free time to opponents of the State's position. And we note that many stations and networks would not accept such paid advertising.

WILMER & PICKERING

By J. Roger Wollenberg
J. Roger Wollenberg

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 27, 1980

The Honorable Forrest H. James, Jr.
Governor, State of Alabama
State Capitol Building
Montgomery, Alabama 36104

Dear Governor James:

This correspondence is written to request your assistance with respect to an issue of vital importance to my State--the Alaska lands legislation now pending in Congress.

Last May, the U.S. House of Representatives passed an Alaska lands bill sponsored by Congressmen Udall and Anderson. For the reasons indicated in the accompanying critique, we believe that this legislation is unsatisfactory from both federal and state points of view. From a federal perspective, enactment of the Udall-Anderson bill would severely jeopardize even the most environmentally-sensitive exploration and development of Alaska's energy and other mineral resources, which are of such critical importance to the domestic security and economic stability of the nation.

From Alaska's point of view, the Udall-Anderson bill would impose severe impacts on land transfers to the State under the Alaska Statehood Act, transportation and access, the traditional Alaskan lifestyle, and other concerns which would be expressed by the citizens of any state in similar circumstances. These concerns are discussed in greater detail in my most recent correspondence to Senators and in a resolution enacted by the State Legislature last year. Copies of this material are enclosed for your ready reference.

Last November, the Senate Committee on Energy and Natural Resources, after numerous hearings and markup sessions held over a two year period, reported an Alaska lands bill by a vote of 17-1. While I have certain problems with this measure, we believe that it is far superior to the Udall-Anderson bill and the counterpart of that legislation now pending in the Senate.

Like all current measures, the committee bill is a strong and highly protective piece of environmental legislation. Yet, this bill would help assure the necessary assessment of Alaska's

energy resources. In addition, certain concerns expressed by the State Legislature in its resolution are fully satisfied, and others could be accommodated with relatively small amendments. To provide you with additional information on the committee bill, I am enclosing an analysis which contrasts this legislation to other pending measures and to existing law.

Shortly after the Senate Energy Committee reported its bill, Senators Tsongas and Roth introduced a complete substitute. While this measure differs in certain technical and cosmetic respects from the Udall-Anderson bill, it is virtually identical in all important respects. Accordingly, we believe that the Tsongas substitute would have the same deleterious impacts on federal and State interests that would result from enactment of the Udall bill.

Last month, the U.S. Senate entered into a time agreement setting forth the rules for debate and amendment of the Alaska lands legislation. Under the agreement, the Alaska issue will not be considered by the Senate before some time in late July. Although this date seems far off, Alaska must continue to do everything we can to obtain support for the legislation reported by the Senate Energy Committee, perhaps with a few amendments that may be proposed by Senators Stevens and Gravel. (The content of these amendments is still under discussion.)

Accordingly, I am writing to you now to ask for your help. If you are persuaded by the State's position, as outlined in the material which is enclosed, I would deeply appreciate your contacting Senators Stewart and Heflin to request their help and support for our position. Specifically, I would appreciate your asking them to support the committee bill and to oppose the Udall-Anderson and Tsongas measures. In addition, please urge them to vote against crippling amendments that will probably be proposed by Senator Tsongas, for the net result of the Senate's adoption of two or three key amendments could well be to convert the committee bill into legislation substantially similar to the Udall measure. So that we can relate the request which I am making in this correspondence to other components of our legislative efforts, I would appreciate your advising me of what action, if any, you decide to take as a followup to my letter.

Thank you for your consideration of my request. If we can be of any further assistance in your analysis of the Alaska lands

legislation or the parliamentary situation which currently exists in the Congress, please call me at 907-465-3500 or my Special Counsel, John W. Katz, at 907-278-2502.

Sincerely,

Jay S. Hammond
Governor

Enclosures

P.S. To apprise you more fully of the various facets of the Alaska lands issue, I am enclosing other material which may be of interest. As you will notice, this information emphasizes the impact on Alaska's energy resources.

The energy issue is multi-faceted and complicated, but one crucial aspect is clear. The Udall-Anderson and Tsongas bills would foreclose even the most environmentally sensitive exploration of the coastal plain of the William O. Douglas Arctic Wildlife Range (formerly known as the Arctic National Wildlife Range). This coastal area is probably the most promising, unexplored petroleum province in North America.

Also included in the accompanying material are two documents which refute a number of myths about the pending legislation, particularly the gross distortion that 95 percent of Alaska's oil and gas resources would be available for exploration and development under the Udall and Tsongas bills. This material also discusses impacts on the conveyance of lands to the State under the Alaska Statehood Act, an unfulfilled federal promise made some twenty years ago, and on other concerns of vital importance to the citizens of my State.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

MAY - 9 1980

STATE OF ALASKA
OFFICE OF THE GOVERNOR
ANCHORAGE

Katz D-2 file

TO: Legislative Oversight Committee on Alaska Lands

FROM: John W. Katz
Special Counsel to the
Governor

SUBJECT: Accompanying material

DATE: May 9, 1980

Enclosed please find a complete packet of our most recent material concerning the pending Alaska lands legislation and related matters. This material reflects our work with Alaska's Senators and our own summary and analysis of certain issues. For your convenience, I have included a table of contents which briefly describes each document that is enclosed.

Much of the accompanying material is now being used by our lobby team and media people. Currently under preparation is a more in-depth analysis of the Tsongas amendments. When this analysis has been completed, I will forward you a copy.

In the interim, if you have any questions or comments, please let me know.

JWK/dw

Enclosures

cc: Governor Jay S. Hammond
Lieutenant Governor Terry Miller
In-State Mailing List
Alaska Media

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

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ALASKA D-2 LANDS

INFORMATION OFFICE
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For Immediate Release

GOVERNOR HAMMOND SAYS TSONGAS AMENDMENTS ENDANGER ALASKA'S ABILITY TO PROVIDE MORE ENERGY

JUNEAU, ALASKA, May 8, 1980--Alaska's Gov. Jay S. Hammond warned today that Alaska's ability to contribute further to America's energy and mineral supplies could be endangered if Alaska lands legislation pending in the U. S. Senate is amended as Sen. Paul Tsongas, D-Mass., has proposed.

Amendments to the Senate Energy and Natural Resources Committee legislation are now being circulated under the terms of a time agreement, and Senate floor action is expected immediately following the July [illegible] gressional recess.

Hammond said the five amendments proposed by Sen. Tsongas obviously are designed to turn the Senate Committee bill into nearly the same legislation which was passed last year by the House in terms of management designations and boundaries, and which is unacceptable to most Alaskans.

"The House-passed bill is not in the nation's best interest since it does not provide for rational resource development in concert with adequate environmental protection," Hammond said.

Alaska's chief executive said he had reviewed the Tsongas amendments and found them to be a "warmed-over" version of the Udall-Anderson bill, which was passed by the House.

"Sen. Tsongas' amendments approximate major provisions of the Udall-Anderson bill creating parks, wildlife refuges and wilderness areas," Hammond said. "Therefore, generally, the same impacts would result, particularly

(more)

with respect to impacts on energy and mineral resources, transportation, sport hunting and other concerns. These impacts should be of critical concern to the nation as well as to Alaska, because significant national objectives, such as some measure of energy independence, could be seriously thwarted."

The governor pointed out that Alaska now provides the U. S. with 1.6 million barrels of oil daily, representing 13 per cent of all U. S. production, and that amount could be increased with environmentally-safe exploration in areas of high potential.

"The Udall-Anderson bill renders that kind of rational exploration virtually impossible," Hammond said, "and the Tsongas amendments would have nearly the same effect on the Senate legislation."

Hammond said it appears to him that the Tsongas amendments are designed to avoid the convening of a conference to reconcile differences between the Senate and House legislation.

"In my opinion, important federal objectives would not be best served if the Tsongas amendments were passed merely to avoid a conference with the House," Hammond said. "The Senate Energy Committee bill is already a carefully balanced and environmentally-sound piece of legislation. It doubles or triples the size of the national park systems, wildlife refuge systems and wilderness systems in the U. S., and, at the same time, it addresses other important concerns, particularly the nation's need for secure sources of energy and minerals."

Hammond said the six amendments offered by Alaska's two senators, Ted Stevens and Mike Gravel, are modest in terms of the overall bill, but are of great importance to most Alaskans. He said adoption of the amendments would not significantly affect the careful balance which has been struck in the Committee bill.

(more)

The three amendments offered by Sen. Stevens would:

- Provide Congressional oversight for major modifications of areas established or expanded by the legislation and require congressional approval for future major executive withdrawals of certain public lands in Alaska;
- Clarify the role of the State of Alaska regarding fish and wildlife management to guarantee that Alaska enjoys the same management prerogatives as those enjoyed by other states;
- Permit an exchange of State lands in and adjacent to the Arctic National Wildlife Range in consideration for certain federal land in the White Mountains/Steese areas, and approve a small number of existing homesteads to clear up confusing land status.

The three amendments offered by Sen. Gravel would:

- Redesignate two million acres of National Parks to national preserves to provide for the continuation of sport hunting, trapping and guiding;
- Address mining claims and access provisions to enable owners of unperfected mining claims to have access and to "prove up" their claims, and also to provide for an access procedure to supplement the transportation and utility title now in the Committee bill;
- Establish procedures for handling submerged lands in the conveyance of Native lands under the terms of the Alaska Native Claims Settlement Act.

Hammond said opponents of the Senate Committee bill are pointing to Alaska's current treasury surplus and new tax laws as reasons for the Congress to ignore Alaska's special land concerns.

(more)

"They ignore the fact that historically Alaska has had the highest rates of inflation, unemployment and cost of living in the nation, as well as grave economic and social problems which have seen a proliferation of bankruptcies and thousands of persons departing the state," Hammond said. "Other states choose to address their problems by increasing government programs and bureaucracies. We could have done the same and no one would have noticed. Instead, we Alaskans chose to permit the people to determine how part of their oil wealth was to be spent, rather than having Big Brother do everything for them."

The new tax laws in Alaska are not related in any way to the pending lands legislation in Congress, he said, adding that Alaska is asking no more from the federal government in the way of a lands settlement than would the responsible citizens of any other state in similar circumstances.

"Linking the two issues ignores not only Alaska's concerns, but also ignores national concerns such as energy and minerals independence," Hammond said.

The governor also took issue with the charge that the state is engaged in a multi-million dollar media compaign on the lands issue.

"Last year we started news media and other informational activities, and much of the focus was within Alaska to explain the issue to Alaskans," the governor said. "We are continuing those activities this year both in Alaska and nationally in order to bring the nation's attention to the crucial issues involved in the pending legislation.

"As a state, our budgetary processes are totally open and subject to the scrutiny of the public," Hammond said, "and I suspect we have spent less than most of the environmental organizations involved in the Alaska lands issue."

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For more information, please contact: IN WASHINGTON, D. C.
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STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

ALASKA LANDS LEGISLATION

State of Alaska's Support of Certain Amendments
May, 1980

Unfortunately, the Alaska lands legislation is often perceived as a vote on the Arctic National Wildlife Range and one or two other issues. For the State of Alaska, there are several additional concerns.

These concerns have been articulated by the State Legislature in a resolution which requests no more from the Federal government than would the citizens of any state in similar circumstances--conveyance of state and native lands; reasonable access across Federal lands; continuing State management of fish and resident wildlife; maintenance of the traditional Alaskan lifestyle; exclusion of high-value commodity resources from restrictive conservation units; replacement of national monuments and certain other executive withdrawals with reasonable Congressional designations; and administrative forebearance from the creation of new conservation units without Congressional concurrence.

If a reasonable Alaska lands bill is enacted, Alaska could contribute much to the energy and mineral requirements of the nation. In addition, achievement of the objectives set forth in the Legislature's resolution is extremely important to the socio-economic development of Alaska and to fulfillment of our Statehood Act compact with the Federal government.

Of the possible legislative and other alternatives, the State strongly supports the Alaska lands bill reported by the Senate Committee on Energy and Natural Resources by a vote of 17 to 1. This measure is the product of numerous hearings and markup sessions held over a two-year period. Like all pending Alaska lands legislation, the Committee bill is a very strong environmental measure. Yet, it also addresses several other Federal and State concerns. Far better than any other pending bill, it strikes a balance between objectives which could otherwise be in conflict.

The accompanying amendments to the Energy Committee bill have been proposed by Senators Stevens or Gravel, and have the strong support of the State of Alaska. In the main, these amendments make modest changes in the Committee bill. The changes, which are discussed in the explanatory material which follows, do

not deal with issues which have received most of the public attention. Rather, the proposed amendments concern issues of great importance to Alaskans in terms of the consensus points articulated by the State Legislature. It is the State's opinion that these amendments can be adopted without significantly affecting the careful balance which has been struck in the Energy Committee bill. Accordingly, we urge the support of the Senate.

Within the next few days, the State will provide Senators with an analysis of amendments proposed by Senator Tsongas.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

Alaska Lands Legislation

Summary of Amendments Offered by Alaska Senators Ted Stevens and Mike Gravel May 9, 1980

According to a time agreement regarding consideration and amendment of Alaska lands legislation on the Senate floor, each of Alaska's Senators is allowed to offer three amendments to the lands bill reported by the Senate Energy and Natural Resources Committee. The following is a brief summary of the amendments proposed by Senators Stevens and Gravel.

The three amendments offered by Senator Stevens are:

1. The first amendment would refine several provisions of the Senate Energy Committee bill to further clarify the Committee's policy with respect to fish and wildlife management. The amendment seeks to preserve traditional federal-state relationships concerning habitat management and species regulations, respectively. With one possible exception relating to the construction of acquaculture sites, the amendment is deemed to be technical in nature, although it is very important to Alaskans. The amendment has been developed in consultation with a number of groups, including the State of Alaska, the Alaska Federation of Natives, and certain sportsmen's organizations.

2. The second amendment would authorize an exchange of lands between the State and Federal governments. If approved by the Alaska Legislature, the State would exchange lands containing important wildlife habitat which would become part of the Arctic National Wildlife Range for title to Federal lands in the White Mountains and the adjacent Preacher Creek drainages near Fairbanks. In addition, pursuant to procedures already included in the bill for Native allotments, the amendment would approve a small number of homestead entries totalling approximately 38,000 acres, and as a consequence, would resolve a number of land status problems.

Benefits to the Federal government from the land exchange would include Federal ownership of the U.S. habitat of the Porcupine caribou herd, an internationally important wildlife resource. In addition, the State would receive lands which are located on the existing road system, are the subject of heavy recreational use by Fairbanks residents, and are highly mineralized.

3. The third amendment would require that except as specifically provided in the lands legislation, any new Federal studies, designations, or withdrawals in excess of five thousand acres be authorized by Act of Congress. The amendment would not affect provisions of the bill which authorize specific boundary adjustments by the Secretary, nor would it affect the Secretary's authority under other Federal laws to make emergency withdrawals and other withdrawals which do not exceed five thousand acres in size. The amendment would also insure that except for minor boundary adjustments, a subsequent Act of Congress would be required to alter boundaries established in the bill.

The amendment is predicated on the conception that once Congress has enacted a comprehensive lands bill, the executive branch should not be permitted to "second guess" this Congressional decision making by effecting further withdrawals without Congressional approval. A similar concept was enacted for the State of Wyoming in the aftermath of the Grand Tetons National Monument. The proposed amendment also addresses Congressional concern about the executive withdrawal process, as such concern is reflected in recent public land laws.

The three amendments offered by Senator Gravel are:

1. The first amendment would redesignate approximately two million acres of proposed national park areas as park preserves. The preserve designations would be managed by the Park Service just like national parks, except the sport hunting, trapping, and guiding activities would be permitted to continue under regulation. Although certain areas would be excluded from pure park designation where existing uses are significant, many areas containing exceptional wildlife resources would remain in the 20+ million acres of parks established by the bill. Thus, less than ten percent of the lands designated as national parks by the Committee would be affected. These lands lie adjacent to areas which are open to hunting under the Committee bill. The amendment is strongly supported by the National Rifle Association and several other sportsmen's organizations.

2. The second amendment would enable the holders of unpatented mining claims which have been maintained in compliance with applicable federal and state laws a short moratorium period of four years in which to prove up their claims. Under existing law, miners have no certainty of land tenure during the discovery process. The massive conservation units which would be established by the lands legislation and other unique factors exacerbate this deficiency. The amendment would not validate existing claims, nor would it apply to future entries.

A second feature of the mining amendment would insure a miner's ability to obtain surface use rights for milling and other activities necessary to produce minerals from a valid claim.

Certain technical changes (the most important is designed to effectuate Committee intent in park recreation areas) would also be effected by the amendment.

The only geographic amendment relating to mining would remove approximately 46,000 acres on the periphery of the proposed Kanuti Wildlife Refuge. This area is believed to contain important deposits of chromium and tin, which are classified as strategic minerals necessary for national security purposes.

The amendment would also provide for an access procedure to supplement the transportation and utility title now in the Energy Committee bill. Under the procedure, the State, and only the State, would be granted some access route across conservation system units after economic and environmental study within a certain time. The present primitive transportation and utility system in the state, the large amounts of Federal lands proposed for conservation systems, and the need to transport energy and other commodity resources necessitate these special provisions.

3. The third amendment would establish certain technical rules for computing Native land entitlements to submerged lands located beneath non-navigable waters. The objectives of the amendment are to reduce conflict and litigation, retain wetland areas in public ownership, and bring certainty to the Native conveyance process. A version of the amendment has been agreed to by the State, the Department of the Interior, and various Native groups, and is included in other pending Alaska lands legislation. While all parties are agreed that the amendment addresses a significant problem that can only be rectified by legislation, additional changes may be made in the mechanisms for achieving the desired objectives.

The amendment also includes certain non-controversial or technical technical provisions relating to Native land conveyances.

CONGRESSIONAL OVERSIGHT OF FUTURE EXECUTIVE ACTIONS

Explanation

One of the goals of Congress in enacting Alaska lands legislation is to stabilize an uncertain land situation in Alaska and to establish congressionally-mandated management principles for Federal lands dealt with by the legislation. The passage of this legislation shouold bring a conclusion to the process of ad hoc executive withdrawals of Federal lands in Alaska, actions which have in the past withdrawn the most massive areas of land in the nation's history.

The amendment's purpose is to recognize that Congress has conducted a long and thorough process in its passage of Alaska lands legislation and that major change of any nature in the status of Federal lands in Alaska should be dealt with only by Act of Congress. The amendment provides that any modification or revocation of the areas established by Congress, unless specifically authorized by a provision of the Alaska lands bill, must be accomplished by Act of Congress.

Drawing on policy decisions enunciated by the Federal Land Policy and Management Act, the amendment requires that any new studies, designations, or withdrawals in excess of 5,000 acres must first be authorized by Act of Congress. This requirement is consistent with the evolution of public land which has limited the unilateral power of the executive branch to withdraw large, permanent areas of Federal land. The proposed amendment preserves the provisions of the bill which authorize specific boundary adjustments by the Secretary. The Secretary's authority under the Federal Land Policy and Management Act to make emergency withdrawals and other withdrawals which do not exceed 5,000 acres in size is also unaffected.

This amendment is a very necessary component of the State of Alaska's position on the Alaska lands issue and support of the amendment's principles has been articulated by a resolution from the Alaska State Legislature.

A technical correction is contained in this amendment to extend the revocation provisions now in the bill to the new wildlife refuges which the Secretary utilized under Section 204(c) of FLPMA in February of this year.

Purpose: To provide Congressional oversight for major modifications of areas established or expanded by this Act and to require Congressional approval for future major executive withdrawals of certain public lands in Alaska

IN THE SENATE OF THE UNITED STATES— ____ Cong., ____ Sess.

S. _____

H.R. _____ (or Treaty _____)
SHORT TITLE

(title) _____

( ) Referred to the Committee on _____
and ordered to be printed

( ) Ordered to lie on the table and to be printed

INTENDED to be proposed by MR. STEVENS

Viz: Page 645, line 25, add the following new section and renumber other sections accordingly:

CONGRESSIONAL OVERSIGHT OF FUTURE EXECUTIVE ACTIONS

Sec. 1324. (a) No boundaries of any area established or expanded by this Act may be revoked or modified unless such modification is specifically authorized by this Act or by a subsequent Act of Congress.

(b) Notwithstanding any other provisions of law, no further studies, designations, or withdrawals of Federal lands in excess of 5,000 acres in Alaska except those authorized by this Act shall be conducted or made unless authorized by Act of Congress.

Title XIII:

Page 644, line 18, strike "and".

Page 644, line 18, following "1978", insert the following:

"Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980."

FISH AND WILDLIFE MANAGEMENT AMENDMENT

Explanation

The fish and wildlife resources of the public lands in Alaska are of national and international significance. The conservation of these important resources is dependent upon the development of a workable relationship between the State and Federal governments regarding fish and wildlife management. The purpose of this amendment is to refine the language of several provisions of the Alaska lands bill to further clarify policy decisions made by the Senate Energy and Natural Resources Committee with respect to fish and wildlife management. The provisions of the amendment focus on three areas: general fish and wildlife management provisions, subsistence management and use, and aquaculture. Brief descriptions of these provisions follow:

General Fish and Wildlife Management: These provisions clarify that the Secretary's regulation of uses of lands within certain national parks for commercial fishing purposes is limited to federal lands (as opposed to State and private lands), that the bill does not authorize the issuance of commercial fishing licenses which are a function of state regulation, that the conservation of fish and wildlife within refuges shall be accomplished in accordance with the requirements of the National Wildlife Refuge Administration Act, that sport hunting, fishing and trapping within refuges shall be subject to the requirements of this Act and other applicable law, that the taking of fish and wildlife shall be permitted within new national units, and that, except as specifically may be provided in Title VIII, nothing in the Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands.

Subsistence Management and Use: These provisions conform references to "subsistence uses" in other parts of the bill with the language of the "subsistence uses" definition from Title VIII, recognize the importance of subsistence uses to the social existence of many non-Natives as well as to the cultural existence of Alaska Natives, require the Secretary to consult with the State during his establishment of a regional advisory council system (if the State does not establish its own such system), clarifies the role of the regional advisory councils in the decision-making process, clarifies that subsistence resource commissions are not required for national forest monuments and that within national parks and national park monuments the taking of fish and wildlife for subsistence uses shall be regulated by the State in accordance with the requirements of Title VIII and applicable state law.

Aquaculture: These provisions ensure that in national park wilderness areas, fisheries research and enhancement activities are to be undertaken in order to maintain fish populations or to

rehabilitate such populations to historic levels unless such activities are detrimental to wilderness area purposes.

The amendment just described was developed in consultation with the State of Alaska, the Real Alaska Coalition and various sportsmen's groups, the Alaska Federation of Natives, the International Association of Fish and Wildlife Agencies, and the National Rifle Association.

and wildlife management, and to make certain technical corrections.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 1st Sess.

S. _____

H.R. 39 (or Treaty _____)

SHORT TITLE

(title) a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation System, and for other purposes.

( ) Referred to the Committee on _____
and ordered to be printed

( ) Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. Stevens

Title I:

Viz:

Page 363, strike lines 1 and 2 and insert in lieu thereof: "opportunity for rural residents engaged in a subsistence way of life to do so."

Title II:

Page 388, line 8, strike "or Federal"

Page 388, line 8, strike "Federal lands" and insert the following: "public lands"

Page 388, line 15, after "." add the additional sentence: "This section does not authorize the Secretary to issue Federal permits to engage in commercial fishing on waters located within a unit of the National Park System."

Title III:

Page 389, line 7, following "practicable", strike "," and insert the following:
"under authority of existing law, including but not limited to the National Wildlife Administration Act of 1966 (80 Stat. 927, 16 U.S.C. 668dd-jj),"

Page 389, line 8, strike "protections" and insert the following:
"(2) to fulfill the obligations of the United States with respect to fish, wildlife and their habitats which are the subjects of international treaties;"

Page 406, line 9, strike "." and insert the following:
"including, but not limited to, the provisions of this Act."

Page 407, lines 24 and 25, strike "or Federal law"

Page 407, line 25, strike "Federal lands" and insert in lieu thereof "public lands"

Page 408, line 5, strike "Federal lands" and insert "Public lands"

Page 408, line 11, after "1979." insert the following:
"This section does not authorize the Secretary to issue Federal permits to engage in commercial fishing within a unit of the National Wildlife Refuge System"

Title V:

Page 416, line 4, strike "protection" and in lieu thereof insert "conservation"

Page 416, line 14, between "other" and "uses", insert "similar"

Page 416, line 16, following "place.", insert the following additional sentence:

> "Provided, that the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law."

Page 417, line 14, strike "protection" and in lieu thereof insert "conservation"

Page 417, line 19, after "1978.", insert the following additional sentence:

> "Provided, that the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law."

Page 417, line 19, strike "Other multiple" and in lieu thereof insert "Multiple"

Page 417, line 20, strike "protection" and in lieu thereof insert "conservation"

Title VIII:

Page 469, line 22, strike "their" and insert in lieu thereof "Native"

Page 469, line 23, between "and" and "cul", strike "Native"

Page 469, line 23, after "existence", strike ";" and insert the following phrase:

> ", and to non-native physical, economic, traditional and social existence;"

Page 470, line 2, strike "persons" and insert "rural residents"

Page 470, line 25, strike "the inhabi-"

Page 471, line 1, strike "tants of Alaska" and insert "residents of rural Alaska"

Page 471, line 2, strike "people" and insert "rural residents"

Page 471, line 25, following "Alaska", strike ", and where" and in lieu thereof insert ". When"

Page 474, line 4, following "Secretary", insert the following phrase:

> ", in consultation with the State,"

Page 474, line 19, following "regional", insert "advisory"

Page 475, line 6, following "ticipation" insert the phrase:

"pursuant to the provisions of this title."

Page 475, line 24, between "local" and "committee" insert "advisory"

Page 476, line 8, between "local" and "committee" insert "advisory

Page 476, line 15, between "regional" and "committee" insert "advisory"

Page 477, line 8, between "local" and "committee" insert "advisory"

Page 477, line 9, between "regional" and "council" insert "advisory"

Page 479, line 7, strike "State in providing such preference," and insert in lieu thereof:

"implementation of this title, including the State's provision of such preference,"

Page 479, line 14, between "local and "committee" insert "advisory"

Page 479, line 15, between "regional" and council" insert "advisory"

Page481, line 20, between "local and committee" insert "advisory"

Page 481, line 21, between "regional" and council" insert "advisory"

Page 482, line between "AND" and "MONUMENT" insert: "PARK"

Page 482, line 6, between "or" and "monument" insert "park"

Page 482, line 7, between "regional" and "council" insert "advisory"

Page 482, line 9, between "or" and "monument" insert "park"

Page 482, line 11, between "regional" and "council" insert "advisory" and between "local" and committee" insert "advisory"

Page 482, line 12-14 strike " is a resident of a village within or adjacent to the park or monument or whose residents engage," insert in lieu there_of "engages"

Page 482, line 14 between "or" and "monument" insert "park"

Page 482, line 18 between "or" and "monument" insert "park"

Page 482, line 24, between "local" and "committee" insert "advisory" and between "regional" and "councils" insert "advisory"

Page 483, line 4 between "local" and "committee" insert "advisory" and following "regional" insert "advisory"

Page 483, line 6 between "or" and "monument" insert "park"

Page 483, line 15, between "or" and "monument" insert "park"

Page 483, line 16, between "or" and "monument" insert "park"

Page 487, line 21, between "local" and "committee" insert "advisory" and between regional" and council" insert "advisory"

Page 488, line 2, following "future," strike remainder of line 2 and insert:

"to ensure the opportunity for continued subsistence uses on the public lands; and"

Page 488, strike lines 3 and 4

Page 489, line 10, between "and" and "monuments", insert "park"

Page 490, line 23, following "or", strike "to assure the continued viability of"

Page 490, line 24, strike "to assure the continued viability of a particular fish or wildlife population." and insert in lieu thereof, "compliance with the provisions of applicable law."

Title XI:

Page 587, line 15, following "is", strike "permitted" and insert the following:

"not prohibited"

Page 633, line 22, between "law." and "Within", insert the following:

"Consistent with the provisions of this Act,"

Page 633, line 21, strike "appropriate reg"

Page 633, line 22, strike "ulation and"

Page 634, line 1, strike "and management"

Page 634, line 12, strike "specifically provided by this Act", and substitute the following:
"may be provided in Title VIII of this Act,"

Page 634, line 23, between "national" and "monuments", insert "park"

Page 635, line 22, strike "may" and insert the following:

"shall"

Page 635, line 25, delete "." and insert the following:

", unless the Secretary determines, after notice and hearing, that such activities and the support facilities necessary to accomplish such activities will constitute a significant detriment to the purposes of such an area."

Page 636, line 7, following "authorized", insert the following:

"by this section"

ARCTIC WILDLIFE RANGE/STATE LAND AND WHITE MOUNTAINS-PREACHER CREEK/FEDERAL LAND EXCHANGE

Explanation

This amendment promotes consolidated ownership of Federal land in the expanded Arctic National Wildlife Range and of State land in the White Mountains/Preacher Creek area north of the Steese Highway near Fairbanks. If the exchange is approved by the State within one year of the bill's enactment (Alaska state law requires public hearings on this proposal prior to approval), the State would convey to the Federal government its selections of important wildlife habitat just south of the existing Arctic Wildlife Range. This land would become part of the range.

In exchange, the State of Alaska would receive title to Federal lands comprising the White Mountains National Recreation Area and the Preacher Creek unit of the Steese National Conservation Area, both of which are created by the bill, and the remaining applications under the homestead and other related public land laws would be approved subject to certain criteria. Beaver Creek in the White Mountains would be designated for study as a wild and scenic river and a 30-mile segment of the Upper Sheenjek River would be designated a wild river as a result of the trade.

For the Federal government, this exchange has several major advantages:

1. The exchange would add to the Wildlife Range valuable habitat especially important for migration and winter range of the Porcupine caribou herd. The area also contains habitat for significant moose and grizzly bear, wolves, wolverines, and other wildlife population.

2. The exchange would eliminate a significant non-Federal inholding within an area of otherwise contiguous Federal land management. By adding this land to the Arctic Wildlife Range, the U.S. Fish and Wildlife Service would extend its management over habitat which would otherwise be conveyed to the State by the Senate Committee bill as valid state land selections.

3. The wild and scenic river designation of the Upper Sheenjek River would be extended some 30 miles downstream, if the exchange is completed, because that part of the river would be added to the Range. Thus, the entire length of the river would be designated as either a wild river (segment within the Range) or for study as a wild river (segment within the Porcupine National Forest), creating the possibility of its becoming one of the longest wild rivers lying entirely within Federal areas.

4. The special values of Beaver Creek are appropriately recognized by its designation for study as a possible addition to the National Wild and Scenic Rivers System in accordance with Section 604 of the Senate Committee bill.

5. By conveying to the State only those lands within the White Mountains National Recreation Area and the Preacher Creek drainage of the Steese National Conservation Area, the exchange relies on the carefully considered boundary delineations of the Senate Committee bill to minimize any major effect on management of the proposed Yukon Flats National Wildlife Refuge to the north.

6. The Federal government would be spared the expense and administrative problem of adjudicating a small number of remaining applications under the Homestead Law and other similar statutes. The Senate Committee bill provides for the approval of Native allotment applications. The provisions of this amendment would provide equal treatment for those non-Natives who have similar applications under the homestead, trade and manufacturing site, headquarters and homesite, and small tract acts. These applications number only 670 and encompass only 38,000 acres (1/30,000 of the total acreage of the bill).

As with Native allotment applications, certain applications would be automatically adjudicated under existing law including those located within a national park, a state or Native selected area, or where there may be a conflict with private rights or specific public interest criteria. The BLM has estimated that the total field work and adjudication of pending Native allotment applications and these applications would require 1210 work months and 30 new positions to clear the backlog at a cost of 7.2 million dollars. The passage of this amendment along with the existing provisions of the bill would eliminate the bulk of that effort.

The State would also benefit from this exchange. By exchanging relatively remote and isolated lands for lands contiguous to other state holdings and which are connected by highway to the rest of the State, the State would be able to provide not only more appropriate and effective land management, but could offer a wider range of opportunities for Alaskan residents. The accessibility of the White Mountains-Preacher Creek area and its diverse recreational and mineral values combine to make this area a prime candidate for state ownership.

Purpose: To permit an exchange of State lands in and adjacent to ANWR in consideration for certain federal land in the White Mountains/ Steese areas and the approval of certain pending applications under the public land laws.

IN THE SENATE OF THE UNITED STATES-- ____ Cong., ____ Sess.

S. _____

H.R. 39 (or Treaty _____)
SHORT TITLE

(title) To designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems, and for other purposes.

( ) Referred to the Committee on _____
and ordered to be printed

(.) Ordered to lie on the table and to be printed

INTENDED to be proposed by MR. STEVENS

Viz: Title IV:

Page 409, line 24, strike "and".

Page 409, line 24, following "1978", strike "." and insert:

", and subject to implementation of the land exchange authorized by section 403 of this Title."

Page 411, line 16, after "403.", insert the following:

"(a)"

Page 411, after line 2, insert the following new subsection:

"(b) (1) If within one year after the date of enactment of this Act the State tenders its conveyance of all lands and the relinquishment of all land selections, comprising approximately 1.29 million acres of land in the Upper Coleen-Sheenjek River area as depicted on the map entitled 'Coleen-Sheenjek Federal-State Exchange Lands' and dated May 1980, the boundary of the Range shall, upon completion of this exchange be amended thereby. Such lands shall, upon such completion, become part of the Arctic National Wildlife Range.

"(2) The Secretary shall accept the tender of those conveyances and relinquishments referred to in paragraph (1) above if they are of proper form, content and execution, and upon their acceptance shall convey to the State under the Alaska Statehood Act (72 Stat. 338, as amended) and section 906(g) of this Act, public lands comprising approximately 1.54 million acres as depicted on the map entitled 'White Mountains-Preacher Creek Federal-State Exchange Lands' and dated May 1980. The acreage of public lands conveyed to the State pursuant to this exchange shall be subtracted from its land entitlement specified in section 6(b) of the Alaska Statehood Act in an amount equal to the acreage of lands conveyed and selections relinquished by the State to the Secretary.

"(3) (a) (1) Approval of Applications. At such time as the land exchange described in subsections (b) (1) and (b)(2) is accomplished and subject to valid

existing rights, all applications located in Alaska made pursuant to the Act of June 1, 1938, 52 Stat. 609, as amended and supplemented, the Act of May 3, 1927, 44 Stat. 1364, as amended and supplemented, or the Act of May 14, 1898, 30 Stat. 413, as amended and supplemented, which were pending before the Department of the Interior on October 21, 1976, and which were located on lands available for such application at the time of entry and all applications made pursuant to the Act of March 3, 1891, 26 Stat. 1097, as amended and supplemented, which are pending and were located on land available for such application at the time of entry are hereby approved on the one hundred and eightieth day following the effective date of this act, except where provided otherwise by subsections (b) and (c).

"(2) All patents approved pursuant to this section shall be subject to the provisions of the Act pursuant to which the application was made and other applicable law.

"(3) Paragraph (1) of this subsection shall not apply to any application which has been knowingly and voluntarily relinquished by the applicant.

"(b) Applications Subject to Adjudication. - Notwithstanding the provisions of subsection (2), an application shall be adjudicated pursuant to the provisions of the Act under which it was made if the application describes -

(1) land which is within the boundary of a National Park System unit established, designated, or redesignated on or before the date of enactment of this Act;

(2) land selected by a Native corporation or Native group; or

(3) land which is patented, deeded, tentatively approved, or confirmed to the State, or selected by the State.

"(c) Protest Rights - Subsection (a) shall not apply and an application shall be adjudicated pursuant to the provisions of the Act under which it was made, if on or before the one hundred and eightieth day following the effective date of this Act:

(1) The State files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State, or a political subdivision of the State, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternative for excess exists; or

(2) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that such land is the situs of improvement, valid mineral interest, or other legal interest in such land claimed by the person or entity.

"(d) Reduction of Acreage - Where an application describes more than the maximum amount of acreage authorized pursuant to the Act under which the application was made, the Secretary shall reduce the acreage to the maximum amount in a manner which is consistent with prior use of the described land by the applicant and which is least detrimental to the applicant.

"(e) Valid Existing Rights - Prior to issuing a certificate or other evidence of approval of an application described in subsection (a), the Secretary shall identify and adjudicate any other record entry or application for title to land described in the application, and shall determine whether such other entry or application represents a valid existing right to which the application described in subsection (a) is subject.

"(f) Processing - Prior to execution of the land exchange described in subsections (b)(1) and (b))2), the Secretary, pursuant to application, shall continue to process the applications referred to in subsection (6)(3)."

Page 447, strike lines 22 through 25.

Page 448, strike lines 1 through 3, and renumber remaining subparagraphs.

Page 450, on line 16, strike "." following "Alaska."

Page 450, following line 16, insert "'(86) Beaver Creek.'."

Page 451, line 15, strike "Beaver Creek".

Page 452, line 25, strike "Beaver Creek".

SENATOR MIKE GRAVEL

PROPOSED AMENDMENT TO ALASKA LANDS BILL ON MINING AND ACCESS

KANUTI REFUGE BOUNDARY ADJUSTMENT

The amendment alters the southwestern boundary of the proposed Kanuti Refuge to exclude about 48,000 acres of federal land (3% of the unit total). This is an upland area containing no waterfowl habitat characterizing most of the refuge area. The proposed exclusion also contains 50,000 acres of land selected by Doyon Native Regional Corporation, including Sithylemenkat Lake. This Lake is noted in the Senate Committee bill as a special value of the refuge, but Doyon's selection will effectively remove the Lake from the unit even if this boundary adjustment is not adopted.

The lands to be excluded contain significant deposits and occurrences of chromium and tine, which are strategic minerals important to the nation's economy and defense, since the U.S. is dependent upon foreign sources for 92% of the chromium and 81% of the tin consumed. The area's proximity to an existing transportation route (only 20 miles from the North Slope Haul Road) makes the development of these valuable resources very likely. This development outside the proposed unit would have no impact upon the key waterfowl habitat of the remaining refuge unit.

MINERAL LEASING PROVISIONS

The amendment substitutes the Act of August 7, 1947 (30 U.S.C. 315-359) for the Act of August 4, 1939 (43 U.S.C. 387) as the authorized means for disposal of nonleasable minerals within areas designated by the bill as Wild and Scenic Rivers (except "Wild" rivers) and National Recreation Areas, if such disposal is authorized by the Secretary. Research has revealed that the 1939 Act provides legally insufficient authority for such extraction under the Dept. of Interior's own interpretation of the statute. Thus, it is our understanding that a new Solicitor's opinion will rule that the 1939 Act, which authorizes the disposal of sand and gravel for the construction of reclamation projects, cannot be utilized in the future to dispose of hardrock minerals.

Accordingly, the proposed amendment would authorize the use of the Mineral Leasing Act for Acquired Lands for the disposal of hardrock minerals located within national recreation areas in Alaska. This Act gives the Secretary ample discretion to permit leasing and provide regulations for such use.

VALIDITY CONTESTS OF PROPERLY LOCATED CLAIMS

The amendment clarifies the legal situation for thousands of existing mining claims located within conservation unit boundaries. These claimants, most of them small operators, cannot afford an immediate validity contest against claims which were lawfully located, but have been difficult to develop due the uncertainty of the ultimate land status, rapidly changing governmental regulation, and the short work seasons in Alaska. The amendment would not validate any claims which were invalid when first located, but would only place a 4-year moratorium on the ability of the government to contest the validity of the claim, thus allowing the claimant sufficient time to "prove up" his claim and demonstrate a valuable ore discovery once the land status is determined by the bill. Since the proposed language requires that claims, once validly located, must be maintained in compliance with applicable State and Federal law, the government would not be denied the opportunity to challenge claims on other grounds, such as the claimant's failure to perform annual assessment work.

This provision recognizes the more complex nature of mineral discovery today, when outcrop deposits are rare and locations are made on the basis of geologic inferences and time-consuming scientific analyses. At the same time, the Secretary's authority to adopt regulations to protect conservation units from degradation due to mining operations is preserved, and the validity of the claims can still be challenged (pursuant to the stringent criteria now being utilized) after the moratorium expires. Moreover, the massive nature of the proposed withdrawals and certain inadequacies in existing law which are exacerbated by the present situation in Alaska provide further justification for the language just discussed.

The language of this provision is adapted directly from language currently in the bill dealing wiht claims on national conservation areas and the White Mountain National Recreation Area.

MILLSITES

The location of millsites is a dilemma created by land withdrawals and uncertain land status surrounding validly-located mining claims. Without the ability to obtain a site to extract or process minerals from otherwise valid claims, a miner may well be prevented by economics from producing from his valid claim. This indirect means of thwarting operations on a valid claim is resolved by the amendment, which allows the claimant to lease adjacent land, if necessary for milling or mining operations, subject to regulations to protect the values of the conservation unit.

ACCESS TO CLAIMS AND PREFERENCE RIGHTS

Another provision of the amendment guarantees reasonable access to unperfected mining claims for the purpose of "proving up" a valid discovery during the moratorium period, and another section establishes a system of preference rights between mining claimants to re-record unperfected claims on lands closed to mining, if the Secretary, pursuant to authority granted him in the bill, later decides to open certain areas to mineral location.

Another component would clarify the status of access to valid mining claims and other property interests. In accordance with existing case law, this provision would make it clear that inholders possess legally recognizable access rights which, however, are subject to reasonable regulation by the Secretary.

The proposed minor change is accomplished by stating that inholders have access rights by virtue of their vested property interests, but that the exercise of such rights can be conditioned upon reasonable regulations which the Secretary deems necessary to ensure adequate environmental protection.

SPECIAL STATE ACCESS

The amendment would add a new section to Title XI which deals with transportation and utility systems across conservation system units. It supplements the process in the bill by including a separate procedure for the granting of access when the applicant is the State of Alaska.

Upon an application by the State, an economic and environmental analysis would be conducted jointly by the Department of Interior and Transportation (where appropriate) and other federal agencies with decision-making authorities. A draft must be completed within nine months and a final within one year. After completion of the analysis, a joint agency selection of a route and the issuance of the necessary permits would be made within 60 days. If no decision is made within 60 days, the application of the State would be considered approved.

This amendment, patterned closely after the special access language for the "boot" in the Gates of the Arctic National Recreation Area, would only apply to the State of Alaska, not private companies or local units of government. The other access provisions in the bill would still apply to these other entities.

Special access provisions are needed for the State because the circumstances relating to transportation and utility systems are unique in Alaska. The rudimentary existing transportation and utility systems, the large amount of federal ownership--particularly in restrictive conservation systems designated in the bill--and the very real potential for future energy and other resource developments on non-conservation system lands contribute to the great need for an access process that is truly workable.

Unlike other western states, which even up to 10 years ago merely filed a notice with the Bureau of Land Management to construct a road across public domain lands, when future needs arise for a road or pipeline in Alaska, the State will be presented with nearly insurmountable legal, regulatory, and judicial barriers to obtain access across federal lands to adjacent State and private lands. By the designation of over 100 million acres of conservation system units--some of which link up to form barriers several hundred miles in length--major areas of Alaska in State and private ownership could be rendered economically unusable by the denial of access.

The State of Alaska, unlike private companies or other entities, has sovereign powers afforded it under the Statehood Compact, has sophisticated planning processes, and has a demonstrated environmental concern and body of law (tied into existing Federal laws and regulations) warranting this specialized access procedure.

This provision is not a carte blanche for the State; ultimate authority for the choice of routes and terms and conditions of any right-of-way or other permit remain with the federal agencies.

MISCELLANEOUS

Included is a minor amendment adding Fairbanks municipal officials to those consulted prior to any agreements on uses of the North Slope Haul Road. Also included is a technical amendment correcting two section cross-references in the "boot" access language.

Purpose: To provide interim protection for valid existing mining claims, to clarify the system for disposing of hardrock minerals in certain areas, to make a minor boundary adjustment in the proposed Kanuti Wildlife Refuge, to provide a special procedure for state access across conservation units, and to make several technical changes relating to mining and access.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 2nd Sess.

S. _____

H.R. 39 (or Treaty _____)
SHORT TITLE

(title) A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation System, and for other purposes.

( ) Referred to the Committee on _____
and ordered to be printed

( ) Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. Gravel

Viz:

Title III:

Page 397, delete lines 20 and 21 and insert the following phrase in lieu thereof:

"the approximately one million three hundred and seventy-two thousand acres of public lands gener .ly depicted on"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title VI:

Page 454, lines 20-21, strike the words "section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and insert in lieu thereof the following:

"The Act of August 7, 1947 (30 U.S.C. 351-359) (which shall apply to public lands, as defined by this Act),

Title XI:

Page 588, line 1, strike the words "be given by the Secretary" and insert in lieu thereof the following:

"have"

Title XIII:

Page 633, line 1, following the word "by", strike remainder of line 1 and insert in lieu thereof the following:

"the Act of August 7, 1947 (30 U.S.C. 351-359) (which shall apply to public lands, as defined by this Act), and he may"

Page 633, strike line 2

Page 646, after line 20, add the following section:

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

SEC. 1325. (a) DEFINITION OF UNPERFECTED MINING CLAIM.--The term "unperfected mining claim" as used in this section means a mining claim which is located on public lands within any unit established by this Act, or within any area added by this Act to an existing unit, with respect to which a valid mineral discovery within the meaning of the mining laws of the United States was not made as of November 16, 1978.

(b) MORATORIUM ON CONTEST PROCEEDINGS.--Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have located and maintained, and must continue to maintain, such claim in compliance with applicable Federal and State laws, and, where applicable, must obtain and comply with any mining access permit requirements imposed by the Department of the Interior. Prior to September 30, 1984, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: Provided, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the units established or enlarged by this Act.

(c) VALID MINERAL DISCOVERY.--If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining or milling purposes: Provided, That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

(d) VALIDITY DETERMINATION.--If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1984, the the validity of each claim shall be determined as of the date of the patent application or September 30, 1984, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1984, shall submit to the Secretary within one hundred and eighty days after such date all mineral data

compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) LEASES FOR MILLING PURPOSES.--If the surface estate of lands comprising claims for which patents have been issued or which have been determined to contain a valid mineral discovery pursuant to this section is inadequate for the purposes of extraction or milling of the mineral estate, the Secretary shall issue leases for other adjacent public lands at fair market value for mining or milling uses in connection with the extraction or milling of minerals from the claims: Provided, That all mining operations conducted upon such lease shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to subsection (b) of this section.

(f) ACCESS TO CLAIMS.--Pursuant to the provisions of this section and section 1110 of this Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1984.

(g) PREFERENCE RIGHTS.--The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on public lands located within the boundaries of any unit established by this Act, or within any area added by this Act to an existing unit, shall be entitled during a two-year period after the date that the Secretary exercises his authority to open an area containing such claim to mining, (1) to a preference right to re-record and develop his claim under applicable law or (2) to obtain a lease to remove nonleasable minerals from the claim under sections 606 or 1312.

(h) DEFINITIONS.--The term "unit" as used in this section is meant to describe any conservation system unit, national recreation area or national conservation area established or enlarged by this Act.

Title XI:

Page 586, add the following new section and renumber the following sections accordingly:

"SEC. 110. (a) Notwithstanding any other provision of this Act or other law, the Secretary and the head of any other Federal agency with decision-making responsibility shall issue such permits, certificates, or rights-of-way as may be necessary for a transportation or utility system across a conservation system unit, national conservation area, national recreation area, natural resource area, special management area, or the National Petroleum Reserve--Alaska for which an application has been submitted by the State in accordance with the provisions of this section.

(b) Upon the filing of an application by the State for a transportation or utility system across a conservation system unit or other unit referenced in subsection (a), the Secretary, the Secretary of Transportation (where he has programmatic responsibility), and the head of any other Federal agency with decision-making responsibility, shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the issuance of necessary rights-of-way and other authorizations for such system. This analysis shall be completed within one year, and the draft thereof within nine months of the receipt of the application, and shall be prepared in lieu of any environmental impact statement which would otherwise be required under section 102(2)(c) of the National Environmental Policy Act, and shall not be subject to judicial review. Such analysis shall consider the following:

(i) Alternative routes, including the consideration of economically feasible and prudent alternative routes across the affected unit or units or adjacent areas which would result in fewer or less severe adverse impacts upon the unit.

(ii) The environmental, social, and economic impacts of the system, including impacts upon wildlife, fish, and their habitat, rural and traditional lifestyles, including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts or to enhance positive impacts.

(c) Within 60 days of the completion of the environmental and economic analysis, the heads of any Federal agencies with decision-making responsibility shall jointly agree upon a route and issue the necessary permits, certificates, or rights-of-way across the conservation system unit or other units referenced in subsection (a). If a route is selected and permitted other than that described in the application by the State, such alternative route shall be in accord with the requirements of subsection (b)(i) of this section. If after 60 days the appropriate authorizations have been been issued, the application by the State shall be considered approved."

On page 589, line 20, strike "." and insert the following:

", and with the chief elected official of the City of Fairbanks and of the Fairbanks North Star Borough."

On page 375, line 3, strike "1106" and insert the following:

"1107"

On page 373, line 14, strike "(a), (b), and (c)" and in lieu thereof insert the following:

"(b) and (c)"

SENATOR MIKE GRAVEL

PROPOSED AMENDMENT TO THE ALASKA LANDS LEGISLATION TO REDESIGNATE CERTAIN NATIONAL PARK AREAS AS NATIONAL PARK PRESERVES

The amendment redesignates approximately 1.97 million acres of the 22.25 million acres of National Park lands in the Senate Committee bill as National Park Preserve lands.

The amendment includes acreage redesignations in five units of the National Park System in the bill: Gates of the Arctic (.422 million cres); Lake Clark (.144 million acres); Wrangell-St.Elias (.623); Katmai (.059); and Denali (.722). In all but Denali, the remaining Park areas would be reduced by less than 10 percent. Overall, this amendment affects only 9 percent of the National Park acreage proposed in the Senate Committee bill and only 5 percent of all lands proposed for inclusion in the National Park System in Alaska.

Under the provisions of the bill, Preserve designation varies from Park designation only in that sport hunting and trapping uses are permitted in a Preserve. All other management prescriptions, including those for timber, hard-rock mining, oil and gas, and other developments would be identical to those of National Parks.

Sport hunting and trapping in addition to subsistence uses of wildlife have been occurring for decades in many of the areas proposed for National Park designation. The outstanding wildlife resources which characterize many of the proposed Park units have sustained this hunting and trapping use under state management with no apparent adverse impact to game populations.

Although there is a need in some cases to set aside Park areas where no sport hunting or trapping can occur for visitor use and apppreciation of unhunted wildlife populations, the current bill sets aside over 22 million acres of Park lands where all sport hunting and trapping would be prohibited. This is an area the size of the State of Maine, or an area the size of 10 Yellowstone National Parks.

The amendment would seek more of a balance in the hunting/no-hunting distribution of Park lands. Although it is true that there would be other state and federal lands open to sport hunting under the bill, the 2 million acres proposed for redesignation as Preserves represent some of the most important areas in the State identified by the State of Alaska and national and state sportsmen organizations where sport hunting, guiding, and trapping activities are currently occurring. It is not simply a question of how many acres would remain open to hunting under the bill, but the what is the importance and quality of various areas in providing existing hunting and trapping opportunities.

At the same time, the 20+ million acres of Park lands which would remain in no-hunting status still contain areas where sport hunting, guiding, and trapping are occurring. Some of the State's most significant wildlife populations, including Dall sheep, grizzly bear and moose, would remain within the Park boundaries, closed to all sport hunting and trapping, for visitor and scientific appreciation.

Although literally hundreds of sport hunters, guides, and trappers would be unable to continue their current uses of the proposed Park units, the amendment would enable some of these users

to pursue their activities in several important areas. The amendment would restore several critical areas assigned by the State to guides allowing them to continue their livelihoods. Other economic interests such as air taxi operators, local suppliers, and outfitters would similarly benefit to the degree that these areas opened to sport hunting and trapping.

The configuration of proposed Preserve additions complements measures taken by the Committee in providing for continued sport hunting and trapping opportunities. In all cases, boundaries are proposed which follow ecosystem boundaries and adjoin other areas designated in the bill where hunting is permitted.

Properly regulated hunting, trapping, and wilderness guiding are generally acknowledged to be legitimate conservation activities which are conforming uses of National Park Preserves. These activities would continue to be carefully regulated by the State of Alaska to protect population levels and by the National Park Service in its protection of habitat.

GATES OF THE ARCTIC

The amendment would designate as Preserve 422,000 acres on the northeast side of the Alatna River adjacent to the existing Preserve in the bill in the John River drainage. The upper Alatna River drainage, including Survey Pass, and the area south and west of the River, including Takahula Lake and the Arrigetch Peaks area, would remain closed to hunting within the Park unit. The redesignations would reduce the Park area by 9 percent and would provide for continued hunting of Dall sheep and bear and for trapping in the area.

LAKE CLARK

The amendment would designate as Preserve 144,000 acres in the Turquoise Lake and upper Kijik River drainages. These areas are contiguous with the existing Preserve designation on the west side of the unit. The Twin Lakes drainage, recognized for its high potential as a visitor entrance and use area, would remain entirely within Park designation and be closed to hunting. The redesignation would reduce the Park acreage by 6 percent and provide continued sport hunting opportunities, primarily for local residents, for caribou, moose, sheep and bear. Trapping, particularly in the Kijik River drainage, is also significant.

WRANGELL-ST.ELIAS

The amendment would designate two areas as Preserves totaling 623,000 acres. One area removes the upper Lakima River drainage from Park and includes it with the remaining drainage in Preserve. The adjacent Kuskulana River drainage would remain entirely within Park status. The other area consists of the Chitina Glacier, Logan Glacier, and Goat Creek drainage. The additional Preserve areas would reduce the Park area by about 8 percent and are composed largely of high glacier and rock areas seldom visited by recreationists other than hunters.

The upper Chitina drainage to be redesignated is of international fame for Dall sheep hunting opportunities and includes key guiding areas assigned by the State.

KATMAI

The amendment redesignates 59,000 acres from Park to Preserve in two areas: the Nonvianuk Lake area on the north side of the existing Monument (52,000 acres); and the Kejulik River drainage on the south side (7,000 acres). Changing these areas reduces the Park area by 6 percent and does not affect any area within the original National Monument.

Both boundary changes are relatively minor and provide primarily for better eco-system boundaries for enhanced administration of hunting/no-hunting areas and the provision of hunting opportunities for both guided and local use.

DENALI

The amendment would redesignate 722,000 acres as Preserves. Approximately 630,000 acres would be added to the designated Preserve north and west of the existing Mt.McKinley Park, and about 95,000 acres would be added in the upper Yentna River drainage south of the Park (the lower Yentna) drainage is already included in Preserve). These changes would reduce the Park designation added to the existing 2-million acre Park by about 28 percent.

The northern redesignation consists almost exclusively of broad lowlands of little relief. The area bears almost no resemblance to the mountainous terrain within the existing Park and is seldom used by recreationists other than hunters. The Kantishna Hills which have been identified as having high wildlife values closely associated with animal population in the existing Park are not included in the Preserve designation. This northern area is important primarily for local hunting of moose and for trapping by local residents.

Several guides are currently assigned to the Yentna drainage which is important for sheep, moose, and bear. The amendment would add the upper drainage to the Preserve to include the entire eco-system under a single management regime.

Purpose: To redesignate certain limited acreage within proposed national parks as park preserves in order to allow the continued opportunity for sport hunting and trapping.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 2nd Sess.

S. _____

H.R. 39 (or Treaty _____)
SHORT TITLE

(title) a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation System, and for other purposes.

( ) Referred to the Committee on _____
and ordered to be printed

( ) Ordered to lie on the table and to be printed

INTENDED to be proposed by _____

Viz: Title II:

Page 372, delete lines 5 through 8 and insert the following phrase in lieu thereof:

"ing approximately four million three hundred and seventy-nine thousand acres of Federal lands, Gates of the Arctic National Preserve, containing approximately two million five hundred and thirty-nine thousand acres of Federal"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title II:

Page 376, delete lines 19 through 22 and insert the following phrase in lieu thereof:

"proximately two million two hundred and ninety-five thousand acres of Federal lands, and Lake Clark National Preserve containing approximately one million three hundred and fifty-eight thousand acres of Federal lands,"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title II:

Page 378, delete lines 19 through 22 and insert the following phrase in lieu thereof:

"taining approximately seven million three hundred and sixty-seven thousand acres of Federal lands, and Wrangell-St. Elias Preserve, containing approximately three million seven hundred and sixteen thousand acres"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title II:

Page 381, delete lines 6 through 10 and insert the following phrase in lieu thereof:

"(2) Katmai National Monument by the addition of an area containing approximately eight hundred and seventy-seven thousand acres of Federal land. An additional four hundred and sixty-eight thousand acres of Federal land is hereby established as Katmai National Pre-"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title II:

Page 381, delete lines 21 through 25 and insert the following phrase in lieu thereof:

"(3)(a) Mount McKinley National Park by the addition of an area containing approximately one million eight hundred and sixty-five thousand acres of Federal land, and an additional one million eight hundred and ninety-one thousand acres of Federal land is hereby es-"

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

SENATOR MIKE GRAVEL PROPOSED AMENDMENT TO D-2 BILL--NATIVE LAND CONVEYANCE PROCEDURES

-----Because of the extensive reorganization of the Department's Native land conveyance procedures and the acceleration of land conveyances recently, the so-called "expedited" conveyance procedures contained in the Committee bill are no longer necessary and would now potentially result in added confusion and delay in land processing. Thus, the amendment would delete those sections in the bill setting out these "expedited" procedures.

This provision has been agreed upon by the Department of the Interior, the State, and Native corporations.

-----The amendment includes a procedure for removing one of the biggest remaining impediments to the rapid conveyance of Native lands - the treatment of submerged lands. Without prejudicing the definition of "navigability" or making any determinations of "navigability", the amendment would allocate the risk of loss of land entitlement from future judicial determinations of navigability. This is accomplished by established procedures and rules for computing entitlements in terms of the size of streams and lakes encompassed within Native selection areas.

This process would diminish the number of administrative and judicial proceedings, thereby reducing conflict, costs, and manpower, and would increase the speed with which conveyances are made. It also contains language which enhances the opportunity to trade-out wetlands and other lands under water bodies which otherwise would go to Native corporations, so that such areas can be retained in public owernship. This provision has now been agreed to by the Department of the Interior, the State, and the Native corporations, and is contained in very similar form in all other current D-2 bills.

-----The amendment would convey the 115 acres constituting the Punuk Islands off the coast of St. Lawrence Island to the village corporations of Gambell and Savoonga. Pursuant to section 19(b) of ANCSA, the villages on St. Lawrence Island elected to receive conveyance of their "Reserve" in lieu of exercising village selection rigts under other provisions of the Act. However, due to primitive mapping at the time the Reserve was established, the confusion arose as to whether the Punuk Islands located five miles off the coast of St. Lawrence were part of the Reserve. The amendment confirms that these Islands, used and considered part of their cultural heritage by the people of St. Lawrence, were a part of the Reserve and are conveyed to the corporations pursuant to ANCSA.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

Brief Analysis of the Tsongas Amendments

May 0, 1980

When the Alaska lands legislation was pending in the House of Representatives, many proponents of the Udall-Anderson bill argued that passage of an extremely expansive measure was necessary because of what the Senate might do. In fact, the Senate Energy Committee has reported a strong environmental measure, even stronger than the legislation reported in the 95th Congress. This bill, which was recommended by a margin of 17-1, is the product of numerous hearings and markup sessions held over a two year period.

In apparent disregard of the careful balance and analysis which are incorporated into the Committee bill, the Tsongas amendments would adopt most of the boundaries and management designations included in the Udall-Anderson measure. As a consequence, severe impacts on energy, minerals, and other national concerns would result. In addition, many State interests would be adversely affected.

A short summary of the amendments and the issues which are raised by them follows.

National Parks

This Tsongas amendment makes major changes in the careful balance between pure park and preserve/national recreation area status which the Senate Committee established. The argument for the most part is not whether the areas involved should be managed by the National Park Service; they would be in both Committee and Tsongas versions. The questions are whether sport hunting will be permitted subject to proper regulation, and in a limited instance, whether the Secretary is left the discretion to allow some resource activity. The Tsongas amendment would resolve these questions in the negative while the Energy Committee would permit established hunting activities to continue.

Wildlife Refuges

This amendment is a whole title substitute which would in effect replace the Senate Committee's work product with that of the House. The House boundaries in all areas dealt with would be

utilized. The net effect of the amendment is to eliminate the land selections granted to the State of Alaska by the Committee and to delete other management designations which the Committee felt were necessary to permit energy, mineral, and other resource development in areas not containing critical habitat and wildlife. While the Committee bill would strike a careful balance between otherwise competing concerns, this measure would add nearly 40 million acres to the national wildlife refuge system--more than doubling the system's current size and adding individual refuge units larger than some states.

Wilderness

Although the Senate Committee bill would more than triple the existing wilderness system, the Tsongas amendment would nearly double that acreage. Included as wilderness is the coastal plain of the Arctic National Wildlife Range--the most promising unexplored petroleum structure in North America--and individual wilderness units larger than some states. As a consequence, even environmentally sensitive resource assessments would be prohibited. Moreover, there would be severe impacts on the construction of visitor and other facilities necessary to enjoy conservation areas, on surface transportation of energy and other commodities, and on various activities which have no significant environmental effects. Thus, while both the Committee and Tsongas approaches would designate vast areas as wilderness, the Tsongas amendment is so expansive as to be of principal benefit to only those hardy souls who can hike these areas.

The amendment also provides for a formal wilderness study of all areas not designated wilderness, which under applicable case law prevents any activities that would alter wilderness characteristics until a final Congressional decision. In effect, all areas of the bill would be wilderness pending Congressional action. By contrast, the Committee bill would earmark vast areas for wilderness study, but would delete certain areas important for other uses.

Southeast Alaska

This amendment adopts the House boundaries as they relate to wilderness in Southeast Alaska. Rather than utilizing the combination of wilderness and special management areas contained in the Senate Committee bill, the Tsongas amendment takes an extremely broad view of wilderness. By contrast, the Committee version would designate 2/3 of the 6 million acres of wilderness in the Tsongas amendment (40 percent of the Tongass National Forest), with the remainder statutorily withdrawn from harvest unless Congress acts. A review of data would be conducted in ten years, but no harvesting could occur without an Act of Congress. If the timber in these

special management areas is not necessary to perpetuate existing harvest levels, it is unlikely that Congress would authorize further cutting. Therefore, the areas involved would receive essentially the same protection under the Committee and Tsongas approaches. The Committee approach is deemed necessary, however, to prevent existing job loss and community instability in the event that Senator Tsongas is wrong about wilderness impacts on harvest levels.

Miscellaneous

This amendment adopts the basic thrust of the House transportation title. Because of Alaska's unique transportation situation (in a state one fifth the size of the nation, there are fewer paved roads than in the District of Columbia and Montgomery County combined), the Senate Committee provided a special process. The process streamlines decision making on transportation applications and involves the Department of Transportation in planning and certain decisions. Yet, strong environmental protection is assured in a number of ways, including Presidential and Congressional involvement in decisions regarding parks and wilderness areas. In contrast, the Tsongas amendment minimizes the role of the DOT and greatly restricts the ability to appeal a negative decision. By so doing, antiquated approaches which have proved so inadequate in other contexts are perpetuated.

Additionally, the amendment would designate wild river corridors which were rejected for access or other reasons in the Energy Committee bill.

Interrelationship Between Amendments

Attention should be given to the interrelationship between the various amendments just described. For example, a press release by Senators Hart and Chafee regarding the wildlife refuge amendment emphasized that these provisions do not preclude oil exploration in the Arctic National Wildlife Range. Yet, another amendment proposed by Senator Tsongas would do this very thing. There is also confusion in the treatment of the proposed Tetlin Naional Wildlife Range and other aspects of the amendments.

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RESEARCH & DEVELOPMENT

TO: JOHN KATZ, Special Counsel
Office of the Governor

DATE: March 20, 1980

FILE NO:

TELEPHONE NO: 279-5577

FROM: JAMES WICKES, Acting Chief
Policy Research Section

SUBJECT: Removal of Locatable Minerals from Park Service NRAs

This memo summarizes my research into the question of whether normally locatable minerals can be made available for disposal in national recreation areas where the removal of nonleasable minerals under 43 USC 387 is permitted but where mineral location is prohibited. The context of my inquiry has been confined to the following national recreation areas under National Park Service jurisdiction: Lake Mead, Ross Lake, Lake Chelan, Whiskey Town, and Glen Canyon. With the notable exception of Lake Mead, whose regulations apparently reference 43 USC 387, the enabling legislation for these NRAs is nearly identical to the language contained in S.9 with respect to mineral management, in general, and reference to 43 USC 387, in particular. The mineral management language for Glen Canyon National Recreation Area and that contained in S.9 (Sec. 1312) have been juxtaposed for easy comparison on the attached sheet. A copy of 43 USC 387 is also attached.

Although each of the NRAs mentioned above and those proposed in S.9 are closed to mineral entry, the Secretary of the Interior has the discretion to permit the removal of leasable minerals according to the mineral leasing laws. The mineral leasing laws that apply to public domain lands are very specific about what minerals can be leased, however, and do not apply to normally locatable hard rock minerals. Thus, the Secretary's discretion to allow the removal of leasable minerals removal cannot be extended administratively to locatables.

In addition to permitting the removal of leasable minerals pursuant to the mineral leasing laws, the Secretary may allow for the removal of nonleasable minerals in accordance with 43 USC 387. The question of whether locatable minerals can be treated as nonleasable minerals and removed under 43 USC 387 assumes a great deal of importance in the case of proposed NRAs under S.9, because the most important mineral values in these areas are the normally locatable hard rock varieties. If the Secretary's discretion to allow the removal from proposed Alaskan NRAs of nonleasable minerals per 43 USC 387 does not include hard rock minerals, then the dominant and most valuable minerals within the proposed Alaskan NRAs cannot be utilized, except where valid existing rights are involved.

On the basis of telephone conversations with National Park Service personnel in Denver, I have found the following:

1. Of the NRAs under Park Service management, only within the Lake Mead unit have locatable minerals been disposed of by means other than that provided by the mining laws. This practice was initiated when the unit was under Bureau of Reclamation management and was continued under subsequent National Park Service management. About one-half dozen "leases" had been issued for uranium and metalliferous minerals until the practice was curtailed several years ago.

2. The Park Service's decision to discontinue this practice within the Lake Mead unit was based upon its determination that the practice was without statutory basis. Specifically, a 1973 Solicitor's opinion which found that locatable minerals could be removed under 43 USC 387 was itself found to be without basis. A new Solicitor's opinion which espouses the contrary position that 43 USC 387 cannot apply to normally locatable minerals within national recreation areas will soon be sent to Washington, D.C. for final review.

3. The Park Service is of the opinion that 43 USC 387 must be followed in its entirety when applying it to NRA mineral management. Under NPS' view, the language of 43 USC 387 is quite restrictive: only "sand, gravel and other minerals and building materials" can be removed from lands being administered under the federal reclamation laws and only "in connection with the construction or operation and maintenance of any (reclamation?) project." Apparently, the Park Service feels that the earlier Bureau of Reclamation position and the 1973 Solicitor's opinion incorrectly interpreted 43 USC 387 as providing sufficient authority to permit the removal of locatables generally.

4. On the basis of this new Department of Interior concensus, the Park Service is proceeding to remove from its regulations for the Lake Mead National Recreation Area provisions that allow for the removal of locatable minerals.

5. For Ross Lake, Lake Chelan, Whiskey Town and Glen Canyon NRAs whose enabling legislation is almost identical to that contained in the Senate Energy Committee Bill (see attachment), the Park Service has never allowed locatable minerals to be removed under the provisions of 43 USC 387.

In summary, the Department of the Interior has apparently reversed its earlier position that locatable minerals within Park Service NRAs can be made available under 43 USC 387. It is anticipated that this position will be articulated formally in a forthcoming Solicitor's opinion on the subject. For Alaskan NRAs as proposed in S.9, this decision would make impossible any development of

these areas' valuable locatable minerals which are not subject to prior existing rights.

Attachments as stated

SENATE BILL 9

ADMINISTRATION OF NATIONAL RECREATION AREAS

SEC. 1312. (a) National recreation areas established by this Act shall be administered by the Secretary or the Secretary of Agriculture as appropriate, in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such areas. Except as otherwise provided in this Act, the appropriate Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation areas, the appropriate Secretary may utilize such statutory authorities pertaining to the administration of the National Park System, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(b) The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. Except with respect to the Noatak National Recreation Area, the Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation areas in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(c) All receipts derived from permits and leases issued on lands or interest in lands within the recreation areas under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition of nonleasable minerals within the recreation areas shall be disposed of in the same manner as moneys received from the sale of public lands.

GLEN CANYON NRA

16 § 460dd-2. **Public lands; withdrawal from location, entry, and patent under Federal mining laws; removal of minerals; disposition of funds from permits and leases**

(a) The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 387 of Title 43, and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended, or the Acquired Lands Mineral Leasing Act of August 7, 1947, if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to sections 460dd to 460dd-9 of this title.

(b) All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

Pub.L. 92-593, § 3, Oct. 27, 1972, 86 Stat. 1312.

Historical Note

References in Text. The United States mining laws, referred to in subsec. (a), are classified generally to Title 30, Mineral Lands and Mining.

Mineral Leasing Act of Feb. 25, 1920, as amended, referred to in subsecs. (a) and (b), is classified to chapter 3A (section 181 et seq.) of Title 30.

Acquired Lands Mineral Leasing Act of Aug. 7, 1947 and the Act of Aug. 7, 1947, referred to in subsecs. (a) and (b), are classified to chapter 7 (section 351 et seq.) of Title 30.

Legislative History. For legislative history and purpose of Pub.L. 92-593, see 1972 U.S.Code Cong. and Adm.News, p. 4015.

Transfer of Functions. All functions of all officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of these officers, agencies, and employees, by 1950 Reorg.Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out as a note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

Legislative History: For legislative history and purpose of Act June 30, 1948, see 1948 U.S.Code Cong.Service, p. 2207.

§ 385b. Repealed. Pub.L. 86–533, § 1(18), June 29, 1960, 74 Stat. 248

Historical Note

Section, Act June 29, 1948, c. 733, § 2, 62 Stat. 1168, related to reports to the Congress of all activities undertaken pursuant to the provisions of section 385a of this title.

§ 385c. Tuition charge per pupil

Historical Note

Codification. Section was from the Interior Department Appropriation Act, 1949, Act June 29, 1948, c. 754, § 1, 62 Stat. 1125, and has not been repeated in subsequent Appropriation Acts.

§ 386. Application of excess-land provisions of reclamation laws to certain lands

The excess-land provisions of the Federal reclamation laws shall not be applicable to lands which on June 16, 1938, had an irrigation water supply from sources other than a Federal reclamation project and which will receive a supplemental supply from the Colorado-Big Thompson project. June 16, 1938, c. 485, 52 Stat. 764.

§ 387. Removal of sand, gravel, etc.; leases, easements, etc.

The Secretary, in his discretion, may (a) permit the removal, from lands or interests in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project, of sand, gravel, and other minerals and building materials with or without competitive bidding: *Provided*, That removals may be permitted without charge if for use by a public agency in the construction of public roads or streets within any project or in its immediate vicinity; and (b) grant leases and licenses for periods not to exceed fifty years, and easements or rights-of-way with or without limitation as to periods

43 § 387

project: *Provided*, That, if a water users' organization is under contract obligation for repayment on account of the project or division involved, easements or rights-of-way for periods in excess of twenty-five years shall be granted only upon prior written approval of the governing board of such organization. Aug. 4, 1939, c. 418, § 10, 53 Stat. 1196; Aug. 18, 1950, c. 752, 64 Stat. 463.

Historical Note

1950 Amendment. Act Aug. 18, 1950, permitted Secretary to grant permanent easements or rights-of-way provided that no easement or right-of-way in excess of 25 years be granted unless there has been prior written approval by the governing board of such water users' organization as may be under contract obligation for repayment on account of the project involved.

Legislative History: For legislative history and purpose of Act Aug. 18, 1950 see 1950 U.S.Code Cong.Service, p. 3034.

Cross References

Federal reclamation laws defined, see section 485a of this title.

Notes of Decisions

Authorization by Secretary 1
Estoppel 2

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1. Authorization by Secretary

Under this section authorizing Secretary of Interior to permit removal of sand and gravel from lands acquired by government in connection with construction of any projects without charge if use is for a public agency in construction of any public roads or streets within any project or its immediate vicinity, subcontractor, who had contract to furnish concrete aggregates to prime contractor, which had right under its contract to obtain aggregates from pit acquired by government for use in connection with government project, could not recover from government which took over stock pile of aggregates accumulated by subcontractor for sale to other government contractors with whom he did not have a contract when subcontractor had not received authority to stock pile aggregates from a person authorized by Secretary of Interior to give such permission. Shotwell v. U. S., D.C.Wash.1958, 163 F.Supp. 907.

2. Estoppel

Where district manager who was in charge of government projects and who had exclusive authority to issue permits, made no representations to or had any direct dealings with subcontractor concerning extraction of materials from a sand pit acquired by government for use in connection with government projects, government was not estopped from denying that subcontractor had a permit to extract materials from pit even if manager had knowledge that subcontractor was removing materials and acquiesced therein. Shotwell v. U. S., D.C.Wash.1958, 163 F.Supp. 907.

§ 388. Contracts for materials; liability of the United States

When appropriations have been made for the commencement or continuation of construction or operation and maintenance of any project, the Secretary may, in connection with such construction or operation and maintenance, enter into contracts for miscellaneous services, for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

[redacted]

1300 COLLEGE ROAD
FAIRBANKS, ALASKA 99701

April 10, 1980

Mr. Steve Silver,
Executive Assistant
Senator Ted Stevens
Room 260
Russell Senate Office Building
Washington, DC 20510

Dear Steve:

I'm enclosing a summary of wildlife, habitat, and recreational values found on the State land south of the Arctic National Wildlife Range prepared by Harry Reynolds of my staff.

If you need additional information, please give me a call at area code 907, phone 452-1531.

Yours truly,

Richard H. Bishop
Regional Supervisor
Division of Game

Enclosure

cc: John Katz
Ronald Somerville

JLH

Summary of Wildlife Values on State Lands South of the Arctic National Wildlife Range/William O. Douglas National Wildlife Refuge

Area Use by Wildlife Species

These State lands are all within the area of ecological concern which was identified by the U.S. Fish and Wildlife Service in their analysis of proposed extensions of the ANWR.

1. Caribou. This area contains important migration routes used by the Porcupine Caribou Herd during August dispersal and fall migration; it also receives light to moderate use as a wintering area and during spring migration. Caribou which move through the area during August travel westward to Old John Lake and provide an important subsistence resource to people in Arctic Village. The fact that the area has been traditionally used by the Porcupine Caribou Herd is illustrated by the remnants of at least four caribou fences or corrals, archaeological sites which were used by the Kutchin Indians to capture migrating caribou.

2. Moose. This area supports light to moderate populations; the riparian habitat found along the Sheenjek, Coleen, and Koness Rivers serves as a wintering area for these animals.

3. Grizzly Bear. Grizzlies are found throughout this area and are reportedly attracted to chum salmon spawning grounds in the Sheenjek River. Population density in the area is estimated at 1 bear/80-120 square miles. Bears use creek banks and the higher elevations of the foothills in this area as winter denning sites.

4. Black Bear. Black bears are at the northern limit of their range in this area and densities are relatively low. They are primarily associated with the coniferous stands of spruce found in the river valleys.

5. Waterfowl. Light densities of waterfowl utilize lakes and small ponds for nesting.

6. Raptors. This area supports a low to moderate density of raptors including at least one confirmed nesting site of peregrine falcons, an endangered species, and the northernmost nesting habitat of bald eagles. Other raptors nesting in the area include gyrfalcons, golden eagles, ospreys, and rough-legged hawks.

7. Furbearers. The timbered drainages of the Coleen, Sheenjek, and Koness Rivers support populations of river otters, mink, marten, and lynx. Wolves, wolverines, and red foxes use this same habitat in addition to adjacent areas where timber is sparse or absent.

8. Fisheries. Chum salmon spawn in both the Sheenjek and Koness Rivers; grayling, pike, and whitefish are plentiful in all rivers and/or lakes in the area.

Scenic and Recreational Values

The Sheenjek and, to a lesser degree, the Coleen Rivers have been used extensively for recreation including boating, hiking, hunting, and wildlife viewing. Recreational boating on the Sheenjek River accounted for 62 percent of this type of recreation which was recorded in the area of the ANWR in 1975. A total of 492 visitor-use days were spent on the river by boaters, about 20-25 percent of which was spent within these State lands.

In recognition of its recreational value and unique characteristics, the Sheenjek River was identified by the Bureau of Outdoor Recreation as having high potential for inclusion in the National Wild and Scenic Rivers system but was not proposed because of unclear land status (State ownership of the land on the southern boundary of the ANWR). The USFWS analysis of the scenic and recreational value of the river was as follows:

> The Sheenjek River possesses exceptional wildlife, scenic, and recreational values along its entire length. In addition, the river spans three separate physiographic regions (alpine, piedmont, and river flat) that characterize both arctic and subarctic conditions on the south slope of the Brooks Range. The river's particular type of scenery and the presence of complete undisturbed biotic communities representative of three physiographic zones make this river unique in comparison with other Alaskan rivers being considered for wild and scenic river status.

Ron Somerville
Director
Division of Game
Juneau

March 19, 1980

Dick Bishop
Regional Supervisor
Division of Game

Comments on Tom Kimball's Propaganda Package of March 12, 1980

Ron, I will try to comment point by point of items of substance included in Kimball's package.

1. Comparison with NWF Resolution #36:

Kimball overlooked the fact that in S.9-79, Sec. 1314 included the statement that the bill will not amend the Alaska Constitution, relative to fish and wildlife management. Tsongas' bill does not include this provision.

Further Kimball does not note that S.9 reaffirms the State's fish and wildlife management authority for all public lands, not just preserves. Further, Kimball fails to note that HR39/Tsongas allows the Secretary to open Federal lands for subsistence use - something not allowed in S.9.

2. Areas Closed to Hunting:

The NWF recap of Interior Department figures has the same basic problem as before: the limitation of straight harvest ticket/permit data. Wayne Heimer's review, quoted below from his current paper, which you'll undoubtedly hear or see in Miami, pretty well summarizes the matter on Dall sheep.

"CURRENT STATUS:

At this time 22,000 of Alaska's Dall sheep are technically off limits to hunters. Of the 28,000 sheep which can be legally hunted under the existing monument regulations approximately 9500 are available only to persons who are fortunate enough to obtain a permit. An additional 2,000 are available onlyareas where access is restricted to walking or special seasons are in effect, and about 1,000 sheep are protected for viewing only. This leaves a total of about 15 to 16,000 sheep available during the open season to hunters who do not have special permits or choose walking as their only means of transportation. This comes to a 65 percent reduction in unregulated (except for season and bag limit) sheep hunting in Alaska.

The draft management plans called for three different management schemes for Dall sheep in Alaska. Where the State of Alaska currently has management authority these schemes are followed in about these proportions. About 6 percent are managed for trophy hunting, about 30 percent are managed for aesthetick hunting conditions, about 4 percent are managed for nonconsumptive use and the remainder

Heinen also reviewed population data in relation to conservation unit status, and determined that the proportions of sheep available for hunting under the various restrictive options are somewhat larger than we previously thought. Under Monuments about 40 percent of sheep populations are unavailable; under HR 39 about 24 percent are unavailable, and under S. 9 about 20 percent would be in Parks. As Wayne noted in the quote above, however, the various permit hunts, the 7/8 curl regulation, and access restrictions, (some which are responses to the Monument designation) when coupled with the unavailability of Dall sheep in Monuments or Parks, drastically reduce the available legally huntable sheep.

With respect to brown/grizzly bear, population figures are more speculative due to the difficulty of censusing bears. Harry Reynolds has summarized land area closed, hunting and harvest from sealing records and other data, and the proportion of bears taken which in the past came from proposed Park areas under HR 39-'79 as passed (attached). In short, 21 percent of the historical average annual harvest came from Park units designated in HR 39. I do not have a firm estimate of the proportion closed under S.9 at this time. A rought estimate made by deleting most of the bears taken in the John River-Itkillik River Preserve and the NPA's, and a few in the other Preserves, appears to indicate that the average annual harvest of brown/grizzly bears under S.9 would be reduced by 12 to 15 percent.

With respect to moose, reported kill locations are notably general, and therefore it is rediculously presumptious to assign an absolute percentage, including one decimal place, to a given area. To do so reflects neither accuracy nor precision, but ignorance of the circumstances. Furthermore, it completely ignores unreported take, which most often is a result of local hunters. Nevertheless, the configuration of Parks is such that moose hunting is less affected than hunging of most other species. Last summer I recalculated moose take affected by Monuments as best I could based on harvest ticket data plus estimates of unreported take and came up with 14 percent of the moose kill being taken in areas subsequently closed by Monuments (not including local take). Similarly, I estimated that HR 39 as passed would in reality reduce moose harvest by 10 to 12 percent, and S.9 would cost 5 to 10 percent of the moose take. Knowing the characteristics of moosehunting and reporting, I suggest that to assign narrower limits of harvests for moose is specious.

Finally, the argument that HR 39 closes only an added 1 percent of Alaska's lands (nearly 5 million acres) to sport hunting compared to S. 9 is completely spurious. The 4.7 million acres are among the best hunting areas in the State. (One might also point out that it closes and area up hunting that is almost 5 times as large as the Spperior-Quetico National Forest of northern Minnesota.) Because the S. 9 areas are relatively small compared to the over-all size of the conservation units and of the State, their contribution to sport hunting is necessarily limited. Further, comparing the land area involved to the size of the

entire State ignores the fact that substantial land areas have very limited fish and wildlife resources. A choice one million acres in the Wrangell Mountains supports considerably more wildlife of interest to hunters than does a million acres of black spruce flats in Interior Alaska. Lastly, Tom Kimball apparently has no appreciation for the aesthetics of hunting if he believes that one acre is just like another.

3 to 5. No comment, except that the Secretary can stop exploration on ANWR if it proves harmful, and only Congress can mandate development. All geologists I have heard criticize the statement that 95% of Alaska's high oil potential lands are open, and the fact that the dilemma of transport corridors and/or operating restrictions posed by HR 39 are never acknowledged by Interior or environmentalists.

7. (There is no complete ecosystem other than the universe!) I have yet to see a law that can fragment an ecosystem! Further, the present boundaries are virtually all politically derived on an opportunistic basis.

Other comments?

Regarding the NWF criticism of NRA statements: "Trapping" is explicit and therefore stronger' the NWF oversimplifies in stating that S.9 "puts a federal judge in charge..." of State wildlife management and ignores the procedural safeguards in S.9.

CHEERS!

attach/

J.S. HAMMOND
GOVERNOR

[redacted]
Juneau, Alaska 99811
OR PHONE: 907-465-3500

HAMMOND ANNOUNCES PROGRAM FOR ASSERTING STATE TITLE TO SUBMERGED LANDS
MAY 12, 1980
#94

FOR IMMEDIATE RELEASE

JUNEAU--Gov. Jay S. Hammond today announced he is directing his Department of Law and Department of Natural Resources to aggressively assert the state's ownership of certain bodies of water in Alaska. Hammond said this is the result of a recent review by his Administration of the state's procedures for asserting title to lands loacted beneath navigable bodies of water. The reassessment was prompted by the state's victory in administrative litigation involving title to two tributaries of the Yukon River and by concerns expressed by sportsmen, Natives, and other groups.

Upon statehood, the state received title to all submerged lands located beneath navigable waters which were unreserved at the time of statehood. Navigable waters are those waterways and waterbodies which have been used historically for travel, trade, and commerce or are susceptible to such uses.

-more-

At the instigation of the state and the Doyon Regional Corporation, the Alaska Native Claims Appeals Board adopted broader criteria for determining navigability than have been utilized in the past by the Bureau of Land Management. This outcome raised the possibility that the BLM's administrative process could be utilized by the state to assert title to submerged lands granted at statehood, even though the state believes only the Federal Courts can make final navigability determinations.

However, since the effect of an administrative determination of non-navigability could be to deprive the public of the use of submerged lands until the courts take final action, the governor has directed the implementation of a multi-faceted program to assert such ownership at the administrative and judicial levels. The state will provide factual information and assert its claim to submerged lands early in the administrative process, and also file administrative appeals when it believes the BLM has not acted properly. The governor indicated that in order to avoid delay in the transfer of lands to Native corporations, the state will ask for separation of disputed areas from tracts of land transferred to the Native corporations.

In addition, the governor said that the state will bring further test cases at the administrative and judicial levels to confirm its view of the criteria which should be utilized in determining navigability. At present, there is a dispute between the Federal government and the state about

what standards should apply. The state has argued for the use of criteria based on patterns of use which are unique to Alaska.

The governor believes that the test case approach will establish a final navigability criteria at an earlier time. "As a consequence, all parties would benefit from the certainty of knowing what submerged land areas would remain in public ownership," he said. Hammond also emphasized that the state's new program has no bearing upon the D-2 lands legislation or proposed amendments to that legislation. The first D-2 bill may establish certain rules computing Native land entitlements under the Alaska Native Claims Settlement Act, but will not affect the criteria or process that state wants to use to determine navigability.

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 2, 1980

The Honorable Cecil D. Andrus
Secretary, Department of the
Interior
18th & C Street, N.W.
Room 6151
Washington, D.C. 20240

Dear Secretary Andrus:

It is my understanding that the depositions given a couple of weeks ago by some of your staff in connection with our pending litigation reflect certain misconceptions regarding the State's policy on administrative land transfers by the Federal government under the Alaska Statehood Act. Accordingly, this correspondence is written to clarify the position of my administration, although I honestly believe that such a clarification should not be necessary.

While the State strongly supports the conveyance title contained in the Alaska lands legislation reported by the Senate Committee on Energy and Natural Resources, we do not view this title as a substitute for the prompt conveyance of lands by administrative action, pending the enactment of a reasonable lands bill. Certainly, the enactment of a conveyance title would represent a quantum step forward in the implementation of the Statehood Act. Not only would the title either confirm or legislatively convey approximately 98 million acres of the State's total entitlement of 103.5 million acres, it would also effect a number of needed changes in the statutory framework for conveying State lands. Such changes cannot be made by executive action.

For these reasons, conveyance language was included in the Alaska lands bill passed by the House of Representatives in 1978, and a technically superior version is contained in the current Energy Committee bill. Despite the failure of the Udall and Tsongas measures to include the significant statutory components of the conveyance title this Congress, it is my understanding that the Energy Committee bill, most of which was worked out in prior years with officials of the Interior Department, raises few significant policy issues.

Although the State believes that many benefits would accrue from enactment of conveyance language, we have consistently pressed

for the administrative transfer of lands selected by the State and for the opening to selection of additional areas which are of interest to us. With this position in mind, we were pleased, and said so publicly, when you opened some 16 million acres to State selection in early 1979. Since then, the State, through my Special Counsel, John W. Katz, and other officials, has requested the Department to make additional conveyances. The most recent manifestation of the State's position is a letter which the State sent to Assistant Secretary Martin on September 28, 1979, indicating our suggested priorities for the future conveyance of State selected lands.

That correspondence clearly demonstrate my continuing desire to receive prioritized land transfers from the Federal government, even if such conveyances diminish certain political issues that might otherwise exist. We do recognize, however, that you are constrained not to convey State selections in conflict with existing or proposed conservation system units, and we have not asked for the administrative conveyance of disputed areas (although such a request is made in our pending litigation).

With these thoughts in mind, we were pleased with your announcement that the Department would convey a minimum of 13 million acres per year to the State. Even the 13 million acre goal seems small in relation to the total State entitlement which has yet to be conveyed. The continuing existence of large Native overselections which, in many cases, do not appear necessary to insure full corporate entitlements, is also of great concern to us.

Further regarding the matter of land availability, we urge the Department to open additional lands to State selection. It is our hope that such areas will accommodate previously identified State selection interests, as expressed to the Department on several prior occasions, and will not be for the purpose of contributing to the numbers game which is so often played in connection with the pending legislation.

In summary, the State continues to favor a reasonable legislative solution to the Alaska lands situation. Nevertheless, the uncertainty of the legislative process, and the tremendous social, economic, and environmental benefits which accrue to the State as our land base expands, make it extremely important to us that administrative land transfers be effected during this interim period. In this regard, I should mention that, contrary to certain assertions made by members of your staff in two of the

depositions, the State has both the desire and the administrative capacity to protect and manage any lands which it receives by virtue of administrative action.

I hope and trust that this letter resolves any questions which some of your staff people might have had. If I can provide any further insights on past and present State policy respecting land transfers under the Statehood Act, please let me know.

Thank you for your consideration of this correspondence.

Sincerely,

Jay S. Hammond
Governor

(907) 277-2415

STATE OF ALASKA
OFFICE OF THE GOVERNOR
D-2 INFORMATION OFFICE
ANCHORAGE

PRESS RELEASE

WASHINGTON D.C., MAY 5, 1980
FOR IMMEDIATE RELEASE

Contacts: Ed Bennett,
Anchorage 277-2415;
Bob Clarke, Juneau
465-3500

GOVERNOR HAMMOND URGES PRESIDENTIAL VISIT TO REASSESS POSITION ON ALASKA LANDS

Alaska's Governor Jay S. Hammond today invited President Carter to Alaska to begin reassessment of all the issues involved in the consideration of Alaska National Interest Lands legislation.

"It is time for all parties involved to take a serious look at the state, national and international implications of the resolution of this issue," the Governor said in a telegram to the White House. "In the past, public discussion of this highly complex matter has been couched in emotional, simplistic terms of environment versus development. We in Alaska believe the nation's best interests are ill served by such rhetoric."

Hammond said his invitation to the President was prompted by the fact that Senate consideration of the legislation is scheduled for July 21, and that various amendments to the bill approved by the Senate Energy and Natural Resources Committee are now being circulated.

"The six amendments offered by Alaska Sens. Ted Stevens and Mike Gravel are modest, but they concern issues of great importance to Alaskans," Hammond said. "Their adoption would not significantly affect the careful balance which has been struck in the Committee bill."

"On the other hand," the Governor said, "the five amendments offered by

Sen. [illegible] seem designed to turn the Committee bill into the same legislation which was passed last year by the House, and which is unacceptable to most Alaskans and not in the nation's best interest since it does not provide for rational resource development in concert with adequate environmental protection."

Hammond said he invited Carter for "an extended tour of the vast areas involved in the legislation, and for discussions with Alaskans about how they want to see their state survive socially, economically and environmentally, while simultaneously assisting the U.S. in achieving energy independence and possibly assisting valuable allies with their energy needs."

He said that Alaska's importance to the nation at this critical time requires a realistic assessment of all the issues involved in the Alaska lands legislation, "and the best place to begin anew is by looking at and walking on the land involved."

Under the terms of a Senate time agreement, the Alaska lands legislation is scheduled to come to the floor for debate on July 21. Both Alaskan senators have offered three amendments each, and Sen. Paul Tsongas of Massachusetts has offered five amendments.

The U. S. House considered the issue last year and passed H.R. 39, the Udall-Anderson bill which is opposed by the State. Hammond said today Tsongas' amendments seem designed to attempt to avoid a conference between the House and Senate once Senate action on the legislation is completed.

"The national interest at stake is simply too great for such an approach," Hammond said. "That's why I consider it absolutely imperative that all parties involved discard the rhetoric and take a new look at the critical importance of the issue."

-30-

Text of telegram to President Carter from Alaska Governor Jay S. Hammond

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The time for Senate consideration of Alaska National Interest Lands legislation is rapidly approaching and I believe that a fresh look at all aspects of the issue is urgently required if the nation's interest is to be best served by the resolution of the issue.

It is time for all parties involved to take a serious look at the state, national and international implications of the resolution of this issue. In the past, public discussion of this highly complex matter has been couched in emotional, simplistic terms of environment versus development. We in Alaska believe the nation's best interests are ill served by such rhetoric.

Accordingly, on behalf of the residents of Alaska, I invite you to come to Alaska as soon as possible for an extended tour of the vast areas involved in the legislation, and for discussions with Alaskans about how they want to see their state survive socially, economically and environmentally, while simultaneously assisting the U.S. in achieving energy independence and possibly assisting valuable allies with their energy needs.

Alaska's importance to the nation at this critical time requires a realistic assessment of all the issues involved in the Alaska lands legislation, and the best place to begin anew is by looking at and walking on the land involved.

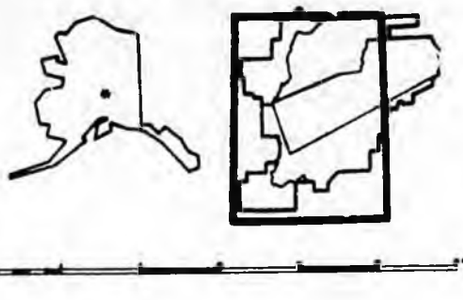
Respectfully,

Jay S. Hammond

Proposed Amendment s Changing Land Designations from Park to Preserve

April 1980

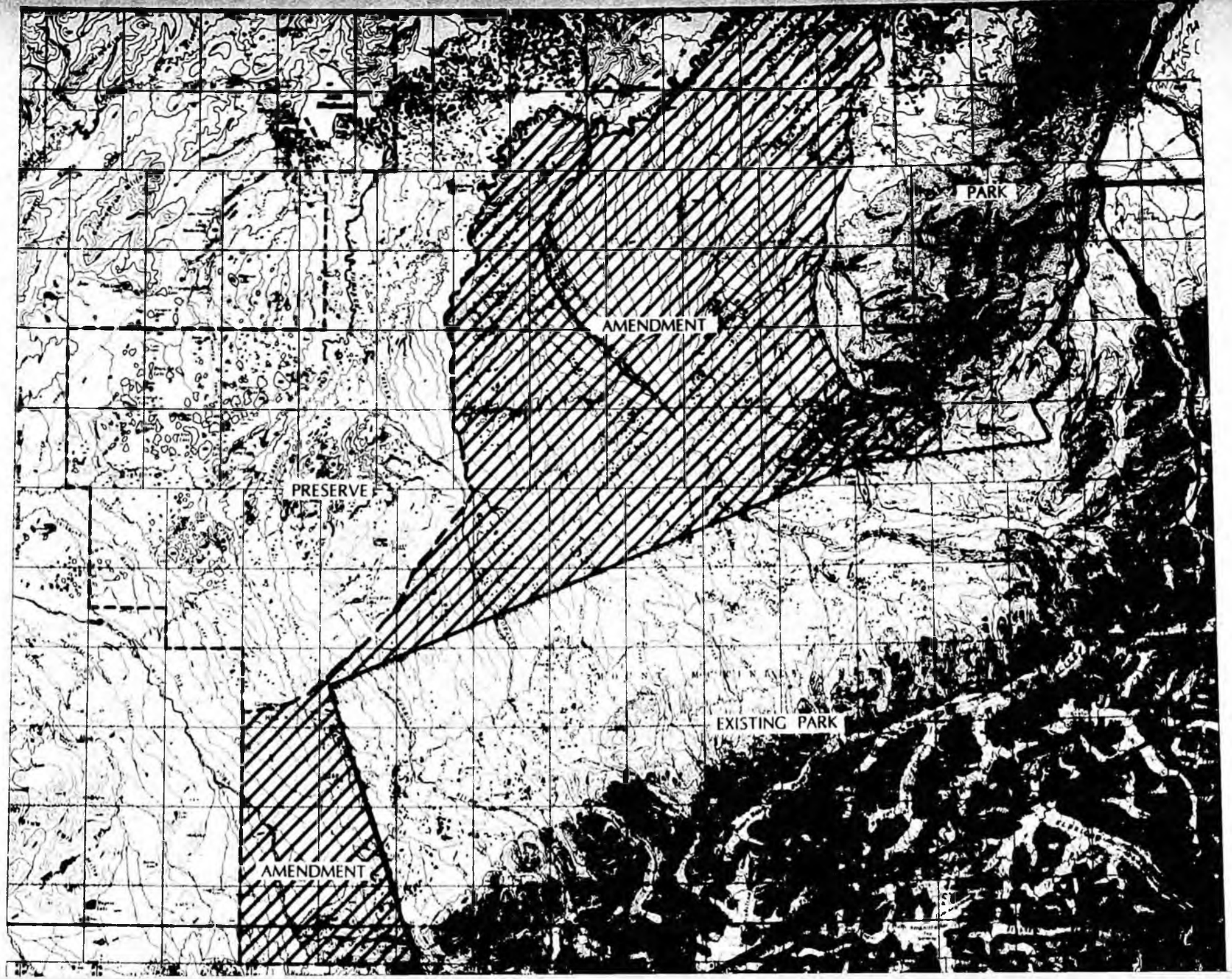
DENALI NATIONAL PARK AND PRESERVE



Existing Conservation Unit Boundary

Park/Preserve Boundary Per Senate Bill 9

Proposed Amendment Area


PARK
AMENDMENT
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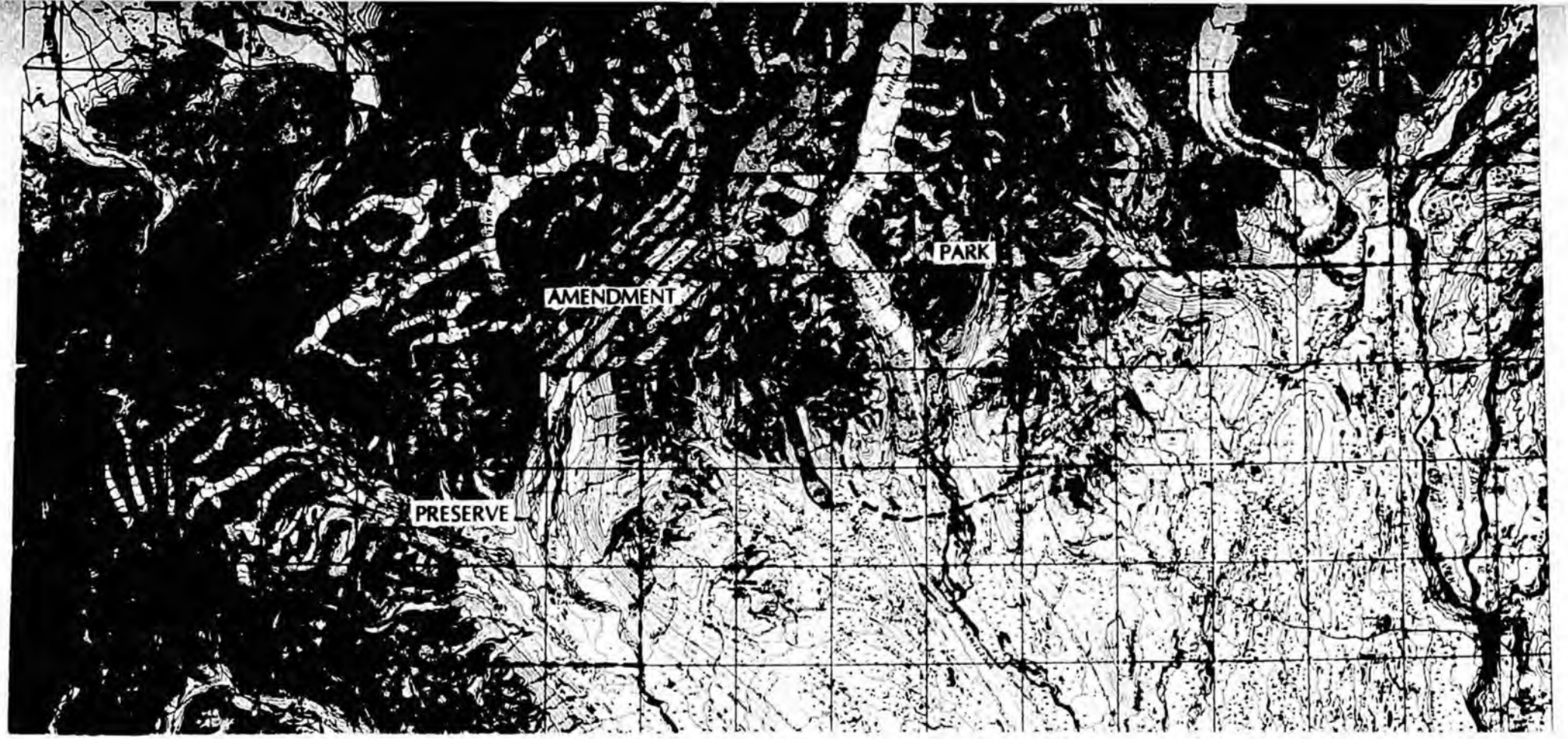
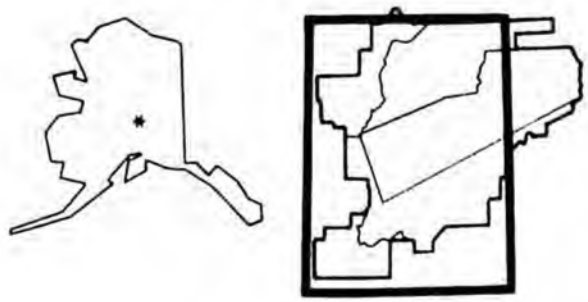
EXISTING PARK
AMENDMENT



Proposed Amendment s Changing Land Designations from Park to Preserve

April 1980

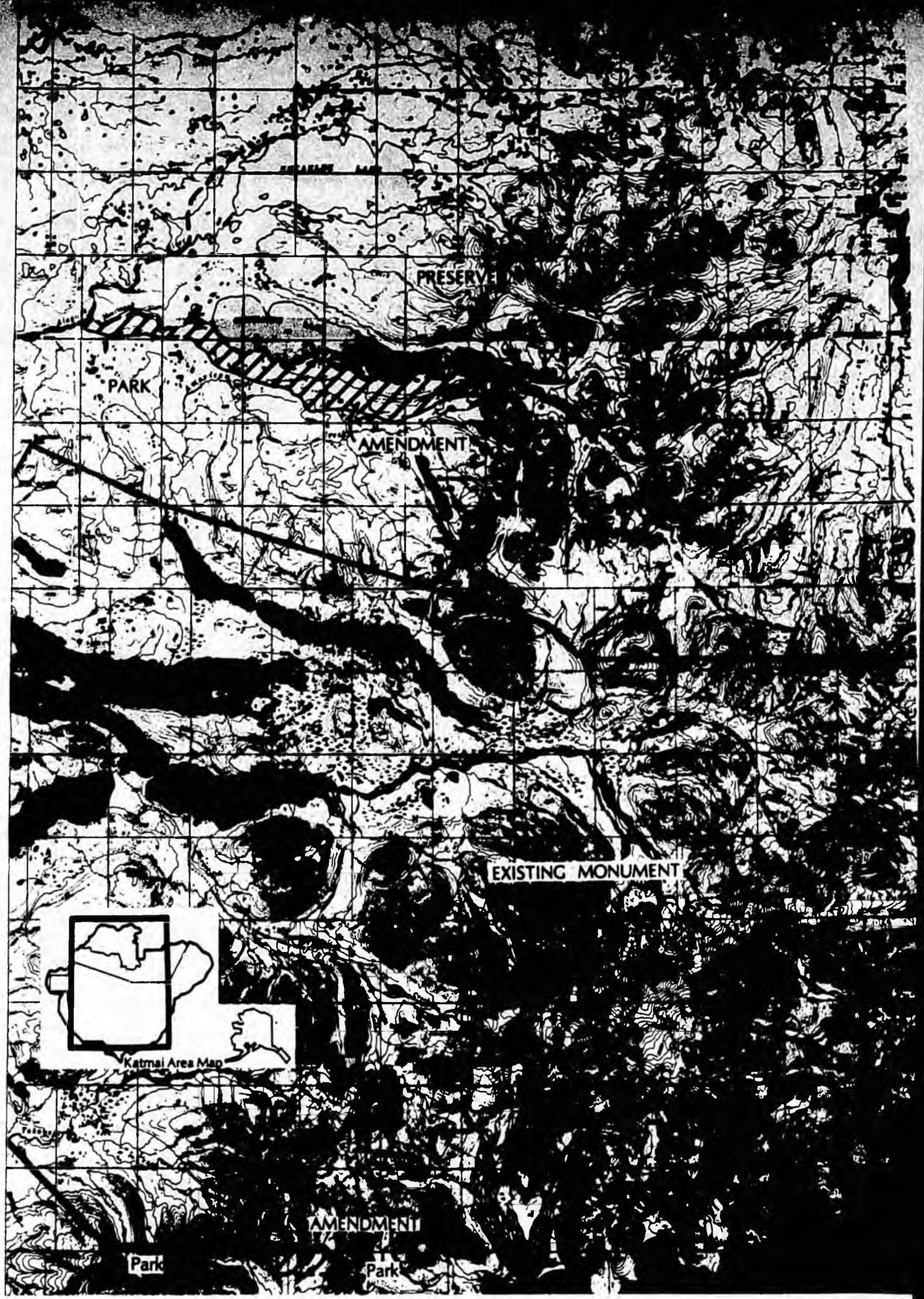
DENALI NATIONAL PARK AND PRESERVE



Existing Conservation Unit Boundary

Park/Preserve Boundary Per Senate Bill 9

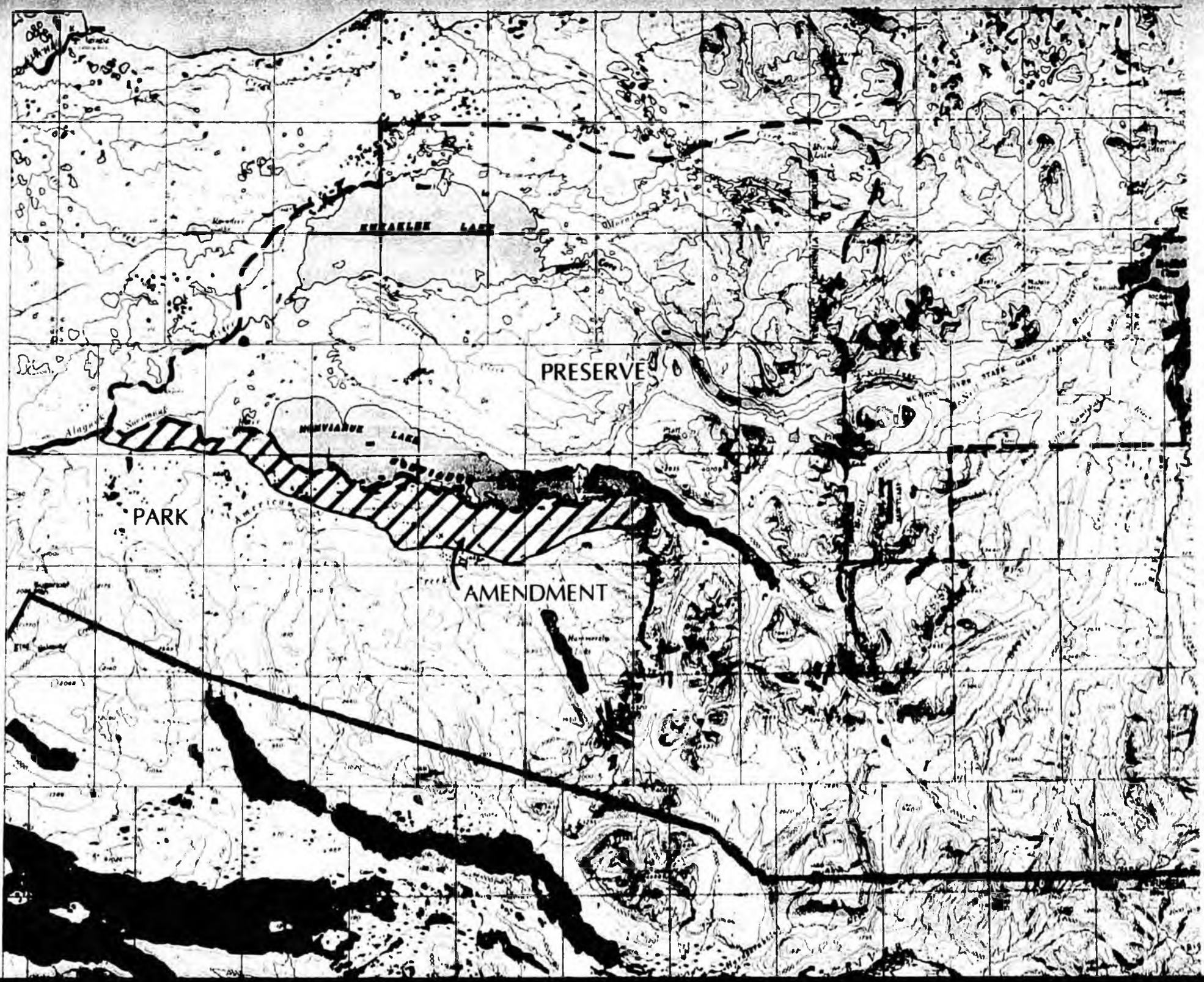
Proposed Amendment Area



Proposed Amendment s Changing
Land Designations from Park to
Preserve April 1980

KATMAI NATIONAL PARK AND PRESERVE

Existing Conservation Unit Boundary
Park/Preserve Boundary Per Senate Bill 9
Proposed Amendment Area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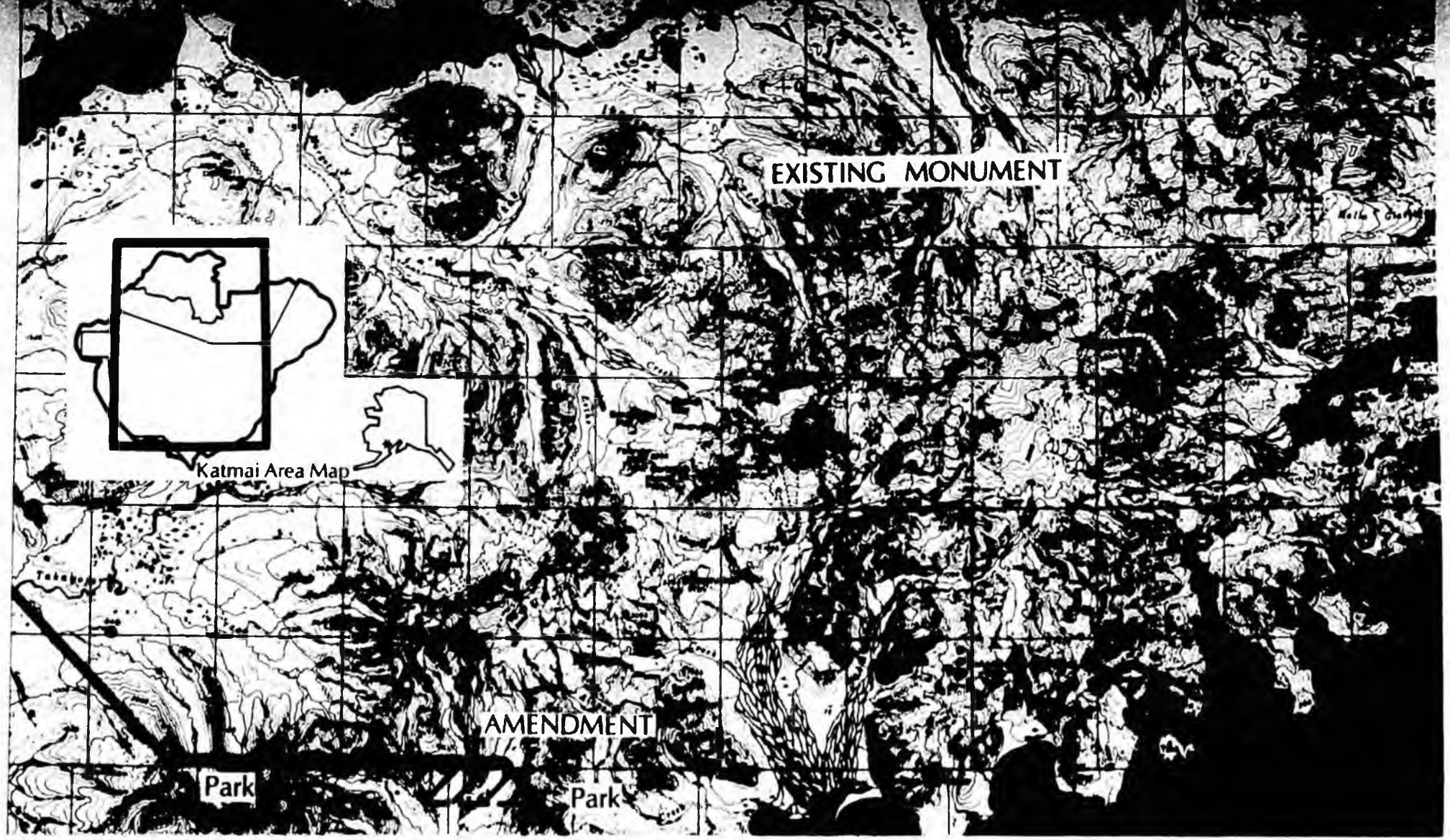


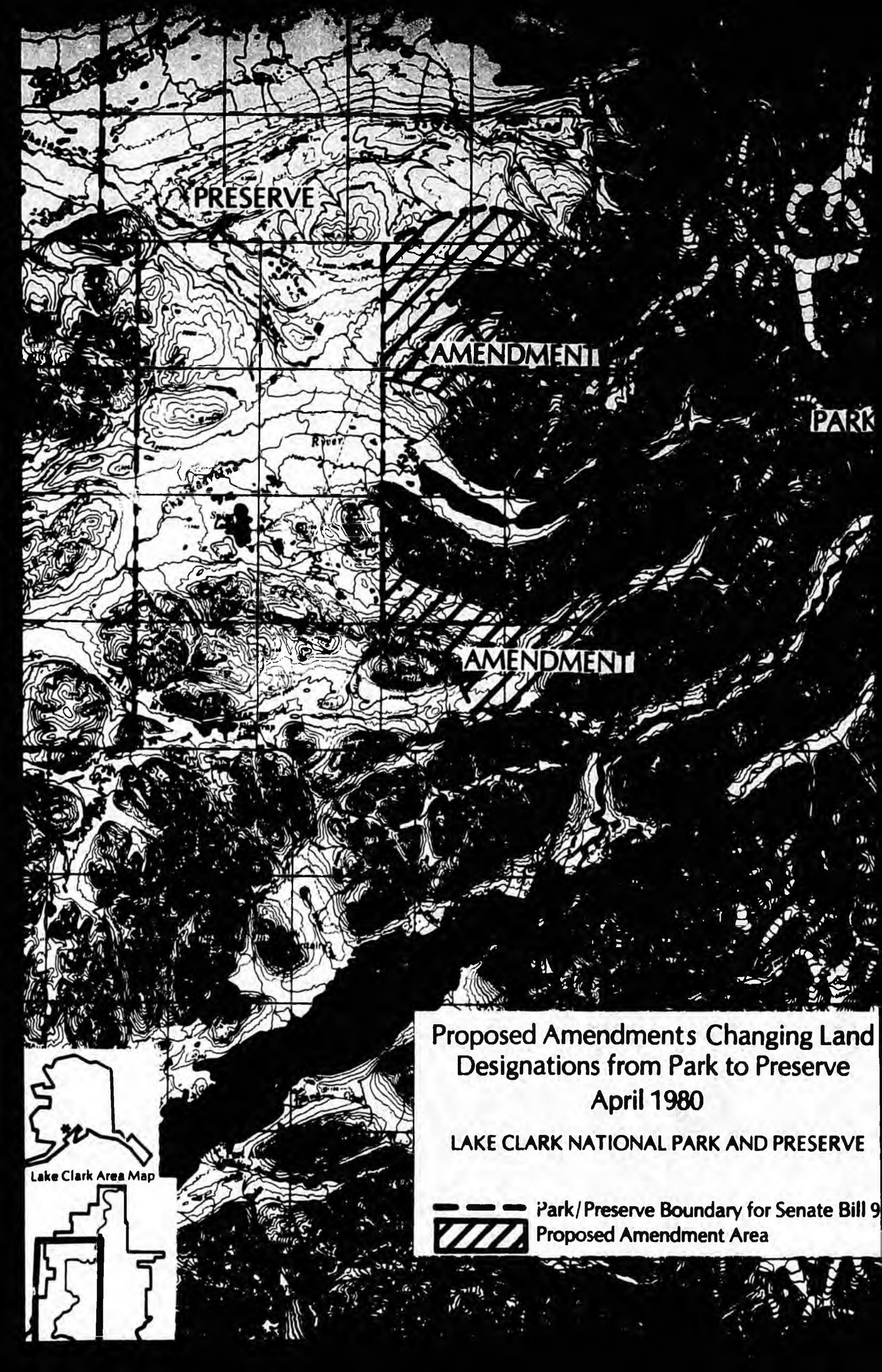
Proposed Amendment s Changing
Land Designations from Park to
Preserve April 1980

KATMAI NATIONAL PARK AND PRESERVE

Existing Conservation Unit Boundary

Park/Preserve Boundary Per Senate Bill 9

Proposed Amendment Area

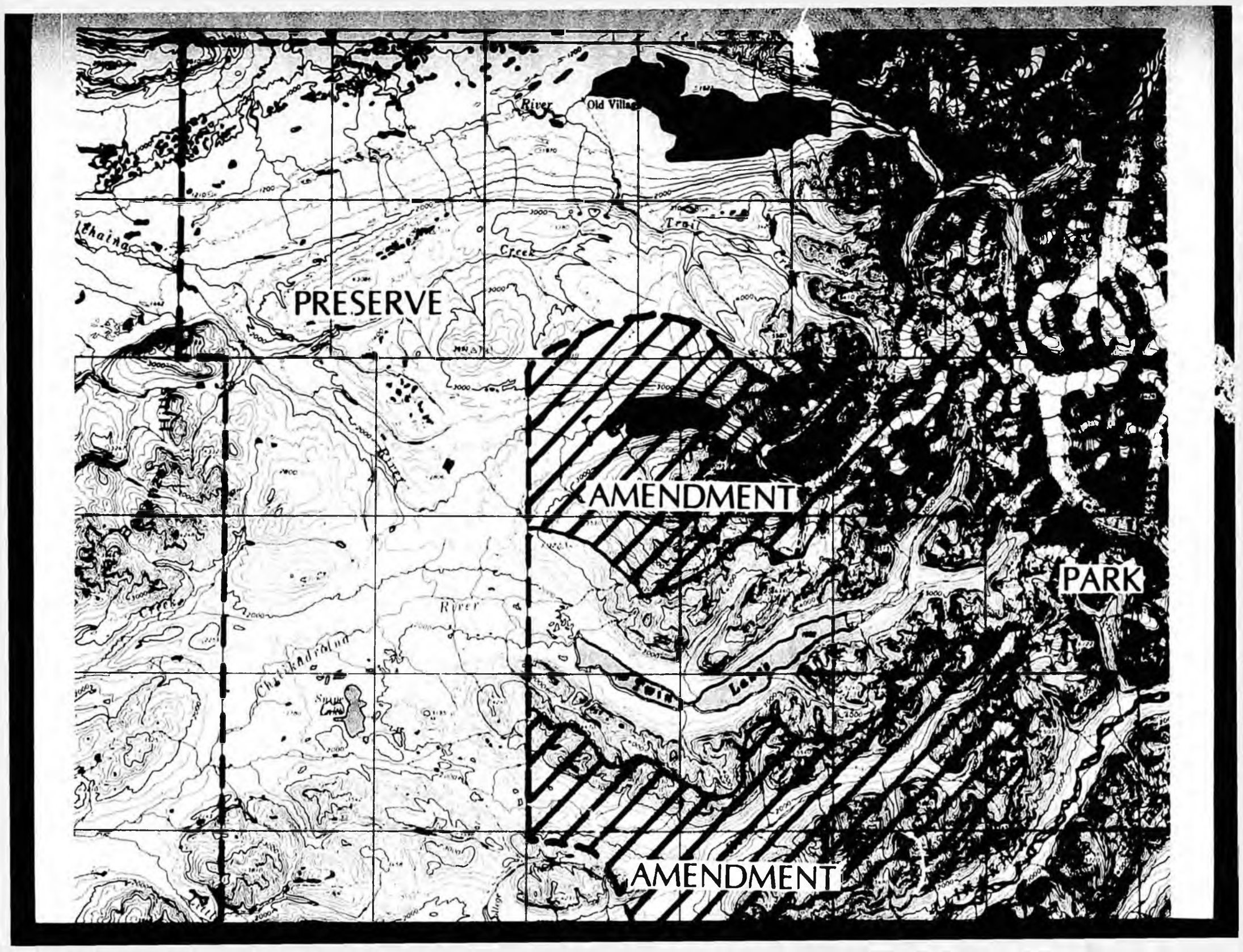


Proposed Amendments Changing Land Designations from Park to Preserve April 1980

LAKE CLARK NATIONAL PARK AND PRESERVE

Park/Preserve Boundary for Senate Bill 9

Proposed Amendment Area


PRESERVE
AMENDMENT
PARK
AMENDMENT

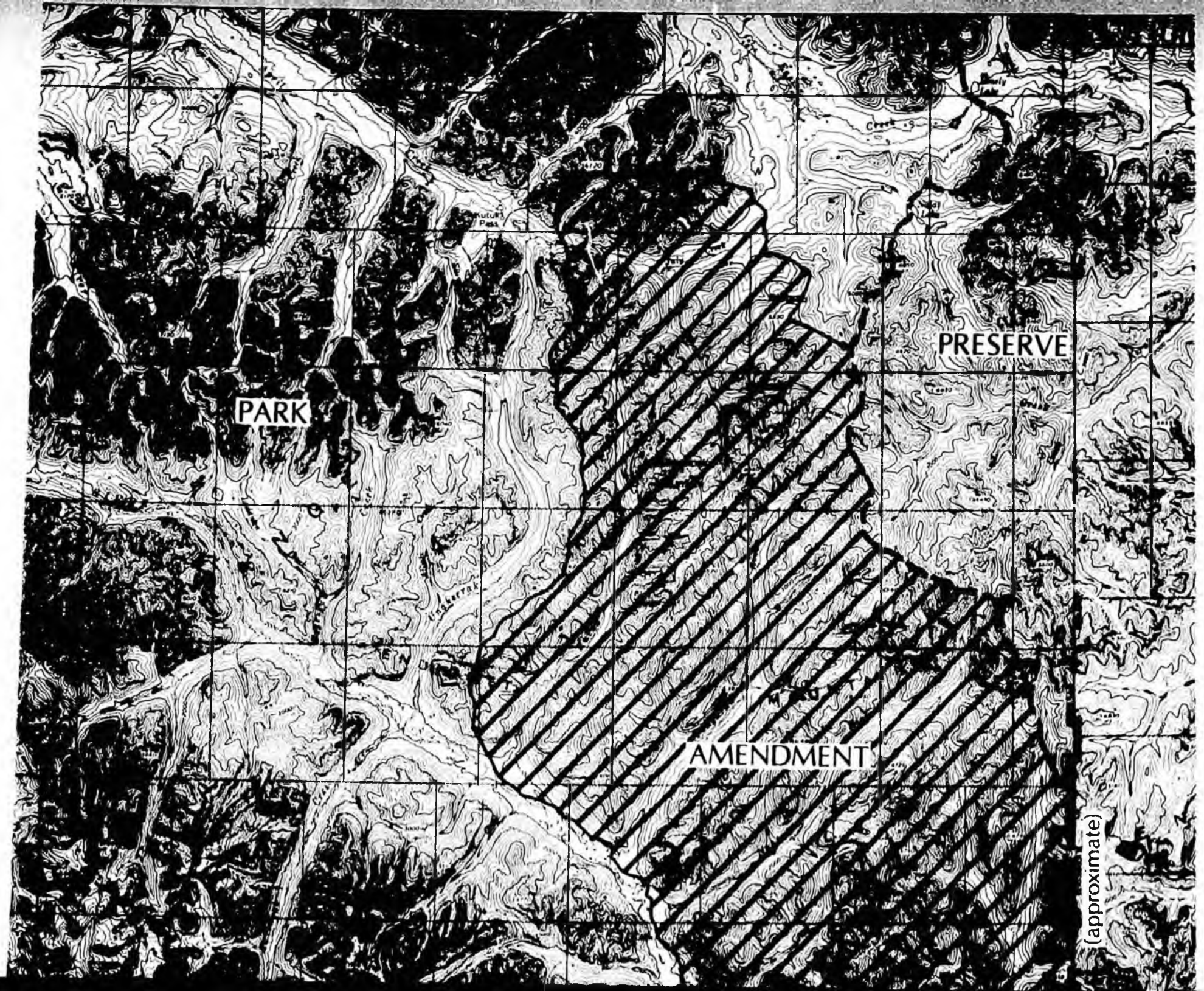

Proposed Amendments Changing Land Designations from Park to Preserve
April 1980
LAKE CLARK NATIONAL PARK AND PRESERVE
Park/Preserve Boundary for Senate Bill 9
Proposed Amendment Area
Lake Clark Area Map
5 0 5 10 15 20 25 MILES

Gates of the Arctic Area Map

Proposed Amendment s Changing Land Designations from Park to Preserve
April 1980
GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE

Park/Preserve Boundary Per Senate Bill 9

Proposed Amendment Area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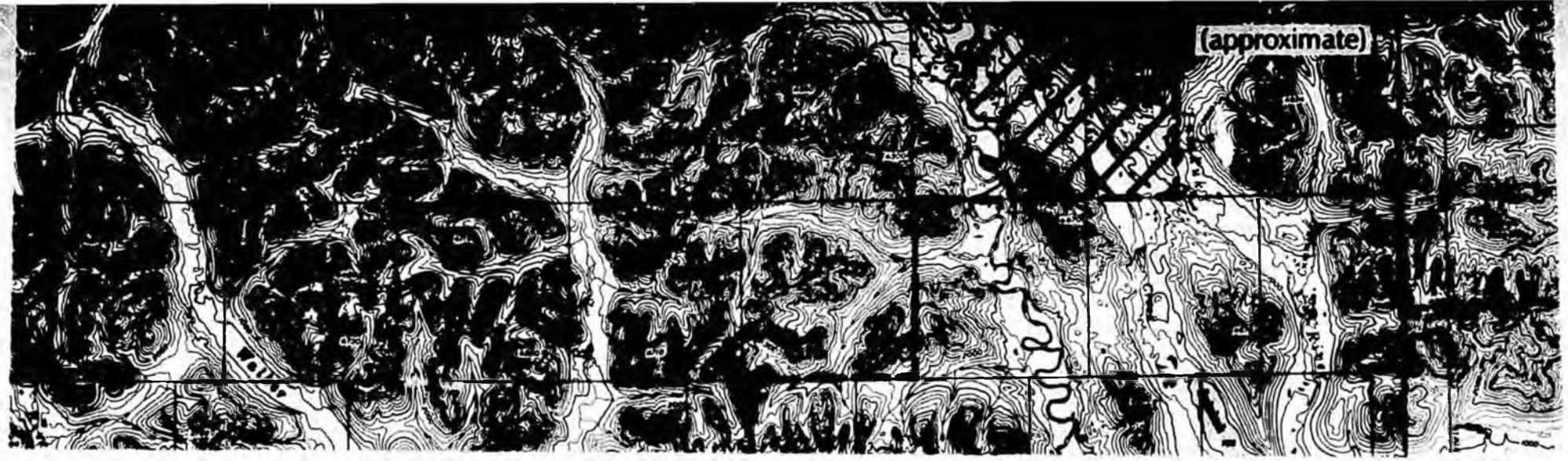
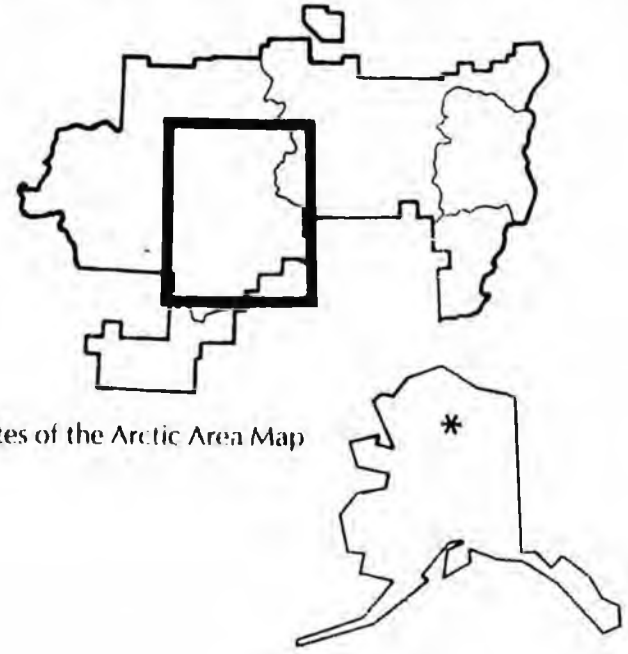




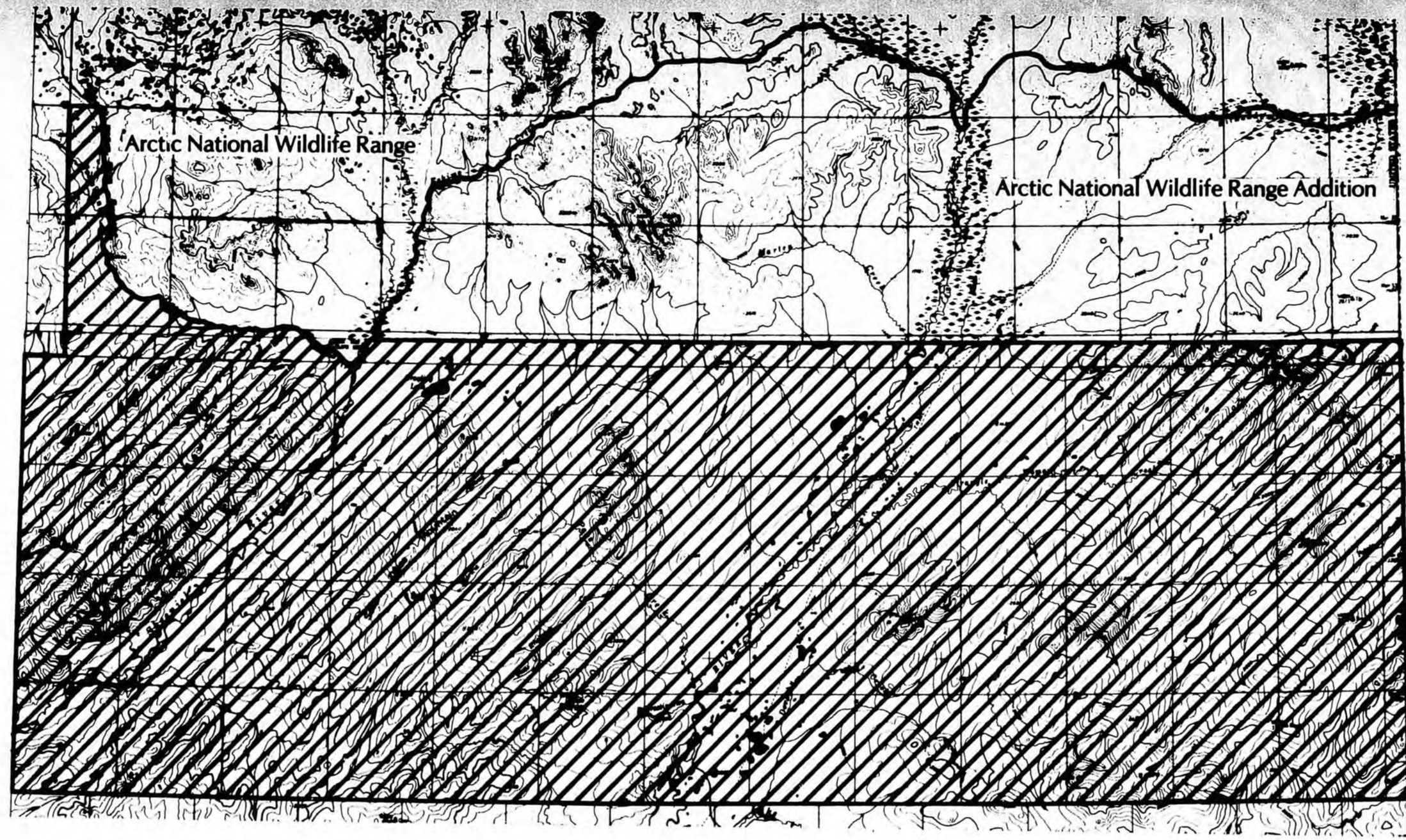
Gates of the Arctic Area Map

Proposed Amendment s Changing Land Designations from Park to Preserve April 1980

GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE

Park/Preserve Boundary Per Senate Bill 9

Proposed Amendment Area



COLEEN-SHEENJEK FEDERAL STATE
EXCHANGE LANDS
April 1980

Existing Conservation Unit Boundary

Proposed Amendment Area

Yukon Flats National
Wildlife Refuge

Preacher Creek Unit,
Steese National Conservation Area

White Mountains
National Recreation Area

WHITE MOUNTAINS - PREACHER CREEK
FEDERAL - STATE EXCHANGE
April 1980

Boundary Per Senate Bill 9
Proposed Amendment Area

Note: Boundaries shown here are meant to represent those of the Senate Energy and Natural Resources bill as reported in November 1979.

PRESERVE

PRESERVE

PARK

AMENDMENT

PRESERVE

PARK

AMENDMENT

Proposed Amendments Changing Land Designations from Park to Preserve

April 1980

WRANGELL ST. ELIAS NATIONAL PARK AND PRESERVE

--Park/Preserve Boundary Per Senate Bill 9

Proposed Amendment Area

Wrangell - St. Elias Area Map

Kanuti Refuge Boundary Per Senate Energy Committee Bill as Reported November 1979

Federal Lands Excluded by Proposed Amendment

Native Lands Excluded by Proposed Amendment

Kanuti Refuge Boundary According to Proposed Amendment

PROPOSED KANUTI NATIONAL WILDLIFE REFUGE

April 1980

Note: Boundaries shown here are meant to represent those of the Senate Energy and Natural Resources bill as reported in November 1979.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.