ANWR

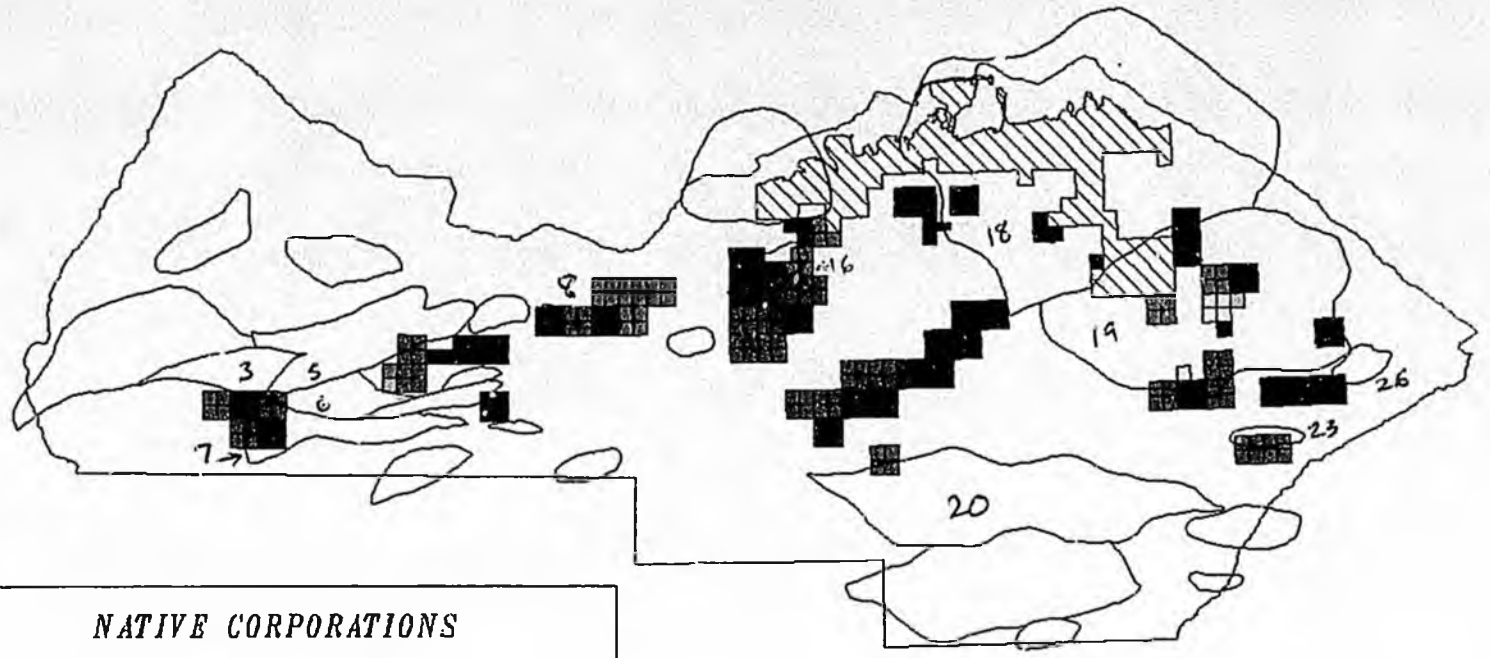
LAND TRADES-

DOI,

ANCSA,

State

NATIVE LAND EXCHANGE SELECTIONS
ARCTIC NATIONAL WILDLIFE REFUGE - 1002 AREA



NATIVE CORPORATIONS

- EXISTING KAKTOVIK INUPIAT CORP.
- DOYON
- GANA-A' YOO
- AKHIOK-KAGUYAK
- NATIVE LANDS GROUP
- OLD HARBOR / Texas
- KONIAG
- NATIVE LAND GROUP / AKHIOK-KAGUYAK POOL
- NATIVE LANDS GROUP / OLD HARBOR POOL

SEISMICALLY MAPPED STRUCTURES

0 MILES 20
0 KILOMETERS 32

U.S. FISH & WILDLIFE SERVICE
REGION 7 - ALASKA

GRAPHICS BY
BRANCH OF IRM/GIS

DATA SOURCE
BUREAU OF LAND MANAGEMENT
JULY 1987

14

Arctic National Wildlife Refuge
Land Exchange Briefing

For the past two years, representatives of the Department of the Interior have been discussing the possibility of acquiring certain lands within National Wildlife Refuges in Alaska owned or selected by Alaska Native Corporations. Acquisition would be accomplished by exchanging them for limited oil and gas interests in the coastal plain of the Arctic National Wildlife Refuge. The exchange is designed to benefit the National Wildlife Refuge System (System) and further the Congressionally mandated purposes for seven National Wildlife Refuges. At the present time 891,000 acres have been offered for exchange (see Table I) by the native corporations.

Table I

Lands to be Added to National Wildlife Refuge System

Refuge	Acres	Native Corporation
Alaska Maritime	87,000	Old Harbor, Native Lands Group
Innoko	125,000	Doyon, Gana-A'Yoo
Kanuti	75,000	Doyon
Kenai	33,000	Native Lands Group
Kodiak	260,000	Ahkiok-Kaguyak, Koniag Old Harbor
Nowitna	78,000	Doyon
Yukon Delta	233,000	Native Lands Group
Total	891,000	

Collectively, the lands being offered represent some of the highest priority acquisition needs within the System in Alaska. Their uniqueness is reflected in world class habitats for migratory birds, anadromous fish, and brown bears coupled with unsurpassed recreational opportunities. For example, 14.2 percent of the population of Pacific Flyway brant, 23.4 percent of the world population of crackling Canada geese, 20 percent of the world population of emperor geese, and 5 percent of the Pacific Flyway population of greater white-fronted geese nest in the lands offered by the Native Lands Group. Other lands offered would perpetually protect lands critical to the Kodiak Brown bear. While the proposed exchange would constitute the largest single acquisition of private lands for the System there remains over 12 million acres of native ownerships within Alaska refuges.

The Department is currently negotiating with six different native entities. Those are (1) Koniag Inc., a regional corporation which is merged with certain village corporations within its region, (2) Doyon, Ltd., a regional corporation (3) Gana-A'Yoo, Ltd., a consolidated corporation comprised of several former village corporations within the Doyon region, (4) Native Lands Group, L.P., a limited partnership consisting of a subsidiary of Cook Inlet Region, Inc., a regional corporation, The Aleut Corporation, a regional corporation, and several village corporations in the Cook Inlet and Calista regions, (5) Ahkiok-Kaguyak, Inc., a consolidated corporation comprised of two former village corporations

in the Koniag region and, (6) Old Harbor Native Corporation, a village corporation in the Koniag region. These 6 entities represent a total of 18 native corporations.

In the past two months the native entities and the Department reached agreement in principle on three important conditions, including: (1) agreement on the value, legal description and acreage the participant proposes to convey to the Fish and Wildlife Service, (2) agreement on the basic terms of the proposed exchange agreement with accompanying environmental stipulations designed to protect refuge resources and, (3) agreement on the process for identifying and allocating a limited number of tracts within the coastal plain to the various participants.

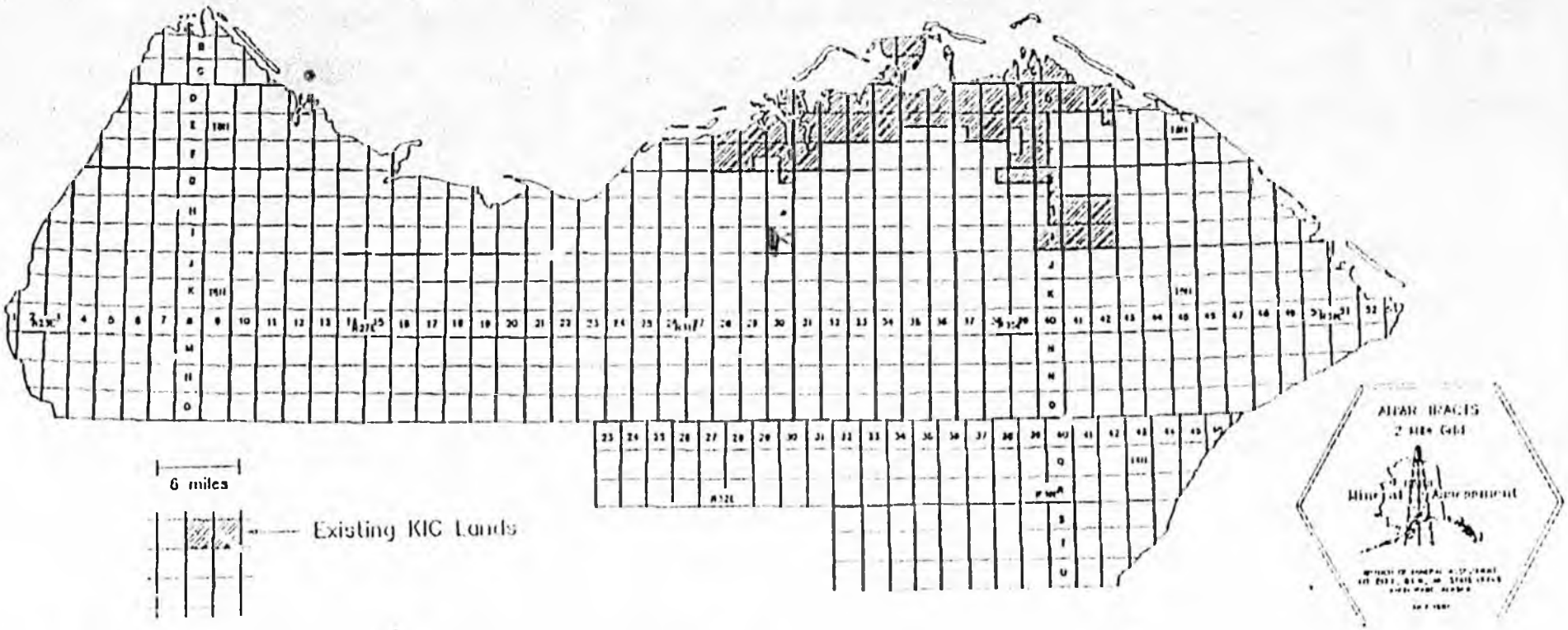
The tract identification process began on July 9th and was completed on July 11, 1987. As a result of the process, up to a total of 65 whole tracts (each tract is typically comprised of 4 sections containing approximately 2560 acres) and 8 partial tracts were identified from a total of 576 tracts within the coastal plain of the Arctic National Wildlife Refuge. The allocated tracts constitutes approximately 166,000 acres or about 10.8 percent of the approximately 1.53 million acre federally-owned coastal plain. Of the 73 tracts identified, 34 were on potential oil and gas containing structures mapped for the 1002 study and report to Congress. The 503 (85.5%) tracts not identified remain available for a federal leasing program and include 87.7% of the tracts over mapped structures. The value of the remain tracts is approximately $3.5 billion.

Table 2

Acres and Values Offered and Identified to be Exchanged by Native Entities

Corporation	Acres	Value (Millions of $)	Acres of Limited Oil and Gas Interests in Arctic NWR
Ahkiok-Kaguyak	115,000	$ 74.9	19,236.6
Doyon	220,000	$121.7	43,367
Gana-A'Yoo	56,000	$ 35.0	21,914
Koniag	112,000	$ 77.4	3,183
Native Lands Group	298,000	~~$184.0~~	20,898.4
Old Harbor	90,000	$ 45.7	57,679
Total	891,000	$538.7	166,278

At present each potential land exchange participant is reviewing its position as a result of the tract identification process and will advise the Department whether it wishes to proceed in the near future. If the exchange proposals are to be forwarded to the Secretary and the Congress for approval there are further activities that need to be completed, including further contract negotiations, preparation and submission of any recommendations to the Secretary, and any renegotiation of the contracts that he may deem necessary, and the preparation and submission of recommendations that Congress approve any exchange agreements. This would include the preparation and circulation of an accompanying LEIS for public comment.


6 miles
Existing KIC Lands

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

IN REPLY REFER TO:
RE/5724e

APR 21 1987

The Honorable Sam Cotten
Co-Chairman, House Resource Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811-0101

Dear Mr. Cotten:

Knowing of your interest in possible land exchanges involving Native and State inholdings in Alaska's National Wildlife Refuges and oil and gas interests in the coastal plain of the Arctic National Wildlife Refuge, I am pleased to enclose a recent copy of a letter from Assistant Secretary William P. Horn to Senator J. Bennett Johnson.

As expressed by the enclosed letter and previous testimony before your committee, it is the Department's intention, as a matter of policy, to seek Congressional approval of any such exchanges that might be consummated. The form of such approval will be at the discretion of Congress, but could include specific legislation, an amendment to new or existing legislation, or administrative approval through Congressional subcommittees. We intend to initiate discussions on the preferred form of approval with appropriate Congressional subcommittees when sufficient progress has been made in reaching agreement with the exchange participants.

We appreciate your continued interest in this important and complex effort. Please let us know if we may be of further assistance.

Sincerely,

Walter O. Steinhoff

Acting Regional Director

Enclosure

Honorable J. Bennett Johnston
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

MAR 31 1987

Dear Chairman Johnston:

The purpose of this letter is to inform you of the status of possible land exchanges involving National Wildlife Refuge System (NWRS) inholdings in Alaska and oil and gas interests in the coastal plain of Arctic National Wildlife Refuge ("the 1002 area").

Early in 1985, the Department of the Interior (Department) was approached by several Alaska Native corporations who sought to exchange their refuge inholdings for subsurface oil and gas interests in the 1002 area. These proposals were conditioned on the completion of the study underway pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA), submission of the Secretary's associated recommendation for management of the area, and appropriate legislation by Congress. Since the properties being offered constituted vast acreages of highly significant fish and wildlife habitats, this was an unparalleled opportunity to enhance the NWRS.

We have made it clear from the outset that any such exchanges will be forwarded to Congress for review and approval. It has been also understood that no exchange recommendation will be transmitted to the Secretary for consideration until he has independently determined what management regime to recommend for the coastal plain as part of the 1002(h) report. Further, any terms and conditions negotiated in connection with potential exchanges will be consistent with the Secretary's recommendation. Accordingly, no agreements will be executed until the 1002(h) report has been completed and the Secretary has notified Congress of his recommendation. We anticipate that the earliest exchange agreements might be available for congressional action would be this summer.

We appreciate the high level of public interest in the exchange proposals now being negotiated and look forward to a public review process at the appropriate time. Following agreement in principle between parties on the major ingredients of the

exchanges, we intend to provide for public review of tentative agreements prior to their final consideration and signature by the Secretary. Additional public scrutiny will be provided via the legislative deliberations attendant to congressional consideration of any contingent exchange agreements that might be approved by the Secretary.

At the present time the Department is negotiating with five Native entities: Koniag, Akhiok-Kaguyak, Old Harbor, Doyon, and Native Lands Group (a partnership of several Native corporations). These participants have offered over one million acres for exchange within the Kodiak, Kenai, Yukon, Delta, Innoko, Kanuti, and Nowitna National Wildlife Refuges. Collectively, the lands being offered represent some of the highest priority acquisition needs within the NWRS. Their uniqueness is reflected in world class habitats for migratory birds, anadromous fish, and brown bears coupled with unsurpassed recreational opportunities. For example, 14.2 percent of the population of Pacific Flyway brant, 23.4 percent of the world population of cackling Canada geese, 20 percent of the world population of emperor geese, and 5 percent of the Pacific Flyway population of greater white-fronted geese nest in the lands offered by the Native Lands Group. Other lands offered would enable us to return to public ownership and restore wildlife refuge status to the majority of the lands critical to the Kodiak Brown bear.

The value of the inholdings must be established through negotiation with the individual exchange participants since ANILCA prohibits other than willing seller inholder acquisitions from native corporations (i.e., no condemnation authority). Accordingly, negotiation is premised on consideration of fair market values, congressional precedents for acquisitions from Native corporations on other Alaska refuges, transactional economies, and management efficiencies to be realized.

The value of oil and gas interests on the 1002 area is being determined using procedures similar to those applied to a traditional Federal lease sale. This valuation process is not subject to negotiation.

Once values have been established on each side of the exchange equation, the Native corporations will be allowed to identify tracts on the coastal plain that are equal in value to the total negotiated value of their inholdings being offered in exchange. This tract identification process will not proceed until the parties have (1) an agreement in principle on the value, descriptions, and acreage of inholdings offered in exchange, (2) an agreement in principle on the basic terms of the exchange agreement, and (3) agreement on the ground rules to be used in identifying and allocating tracts to the various exchange participants. These matters are still subject to active discussion with the Native corporations.

The operational stipulations being negotiated as part of the exchange contract are premised on the "no unnecessary adverse effects" standard referred to in the 1002(h) report. Once the final report is released these stipulations will again be reviewed for consistency with the report. Accordingly, any mitigation measures that may be called for by the final 1002(h) report will be incorporated into these stipulations. This approach will assure the consistency necessary to provide adequate environmental safeguards while avoiding unnecessary duplication of infrastructures among potential oil and gas operators. The proposed waiver of the provision of ANILCA Title XI inholder access rights by the exchange participants is directed at this same objective.

Another important feature of the exchange is the availability of rescission options to the Native corporations. These options provide an incentive to those Native corporations that might be willing to exchange virtually all of their existing refuge inholdings if they can do so while minimizing the risk of loosing essentially all of their land assets through these exchanges. We have attempted to be responsive to this need by drafting two rescission options that would allow them to (a) rescind due to institutional frustration beyond their control and (b) rescind for failure of consideration. These options are not open-ended, and they are not cost free. They do not guarantee that the exchange participant will fully recover the value of their inholdings in the form of oil and gas revenues, and provide that in the case of the failure of consideration option the Fish and Wildlife Service shall retain a substantial portion of exchanged inholdings.

We were recently disappointed when Alaska Governor Steve Cowper withdrew the States as an active exchange participant. The State's involvement in the exchange process dated back to August 1985 when I personally invited then Governor Bill Sheffield to join in this endeavor. At the time of the State's departure, we had tentatively reached an agreement to acquire approximately 800,000 acres of State lands with important fish and wildlife values through exchange. Had the State continued to participate, this acreage would have represented about 40 percent of the total lands being considered for exchange.

In considering the exchanges now being negotiated, we have been mindful of the need to balance the interests represented by the exchanges against those interests that are represented by disposal of 1002 area oil and gas interests through a traditional Federal leasing program. Given these dual program interests, we have been careful to design the exchanges to ensure that the bulk of subsurface values on the 1002 area will be available for disposition through subsequent lease sales if that is the approach approved by Congress.

We will continue to pursue the negotiations as a prospective means of adding hundreds of thousands of acres of vital fish and wildlife habitat to the National Wildlife Refuge System. Please let us know if you have additional questions or need for additional information. The concepts described here reflect the current thinking, but the ultimate positions to be taken by the Department regarding the ANWR exchanges have yet to be determined.

Similar letters are being sent to the Honorable James A. McClure, Committee on Energy and Natural Resources, United States Senate; Honorable Don Young, Subcommittee on Fisheries and Wildlife Conservation and the Environment, House of Representatives; the Honorable Robert W. Davis, Committee on Merchant Marine and Fisheries, House of Representatives; the Honorable Walter B. Jones, Chairman, Committee on Merchant Marine and Fisheries, House of Representatives; and the Honorable Morris K. Udall, Chairman, Committee on Interior and Insular Affairs, House of Representatives.

Sincerely,

/Sgn/ William P. Horn

Assistant Secretary for Fish and Wildlife and Parks

cc: Senator Stevens
Senator Murkowski

OIL AND GAS LEASING STATUS OF ANWR

JAN. 22, 1943-PLO 82 WITHDREW ALL PUBLIC LANDS IN NORTHERN ALASKA FROM SALE, LOCATION, SELECTION, AND ENTRY UNDER PUBLIC LAND LAWS, INCLUDING THE MINING LAWS, AND FROM LEASING UNDER THE MINERAL LEASING LAWS.

APR. 15, 1958-PLO 1621 AMENDED PLO 82 TO PERMIT LOCATIONS UNDER THE MINING LAWS AND ISSUANCE OF MINERAL LEASES PURSUANT TO THE 1920 ACT EXCEPT FOR NPR-A AND ALL LANDS EAST OF THE CANNING RIVER AND NORTH OF THE BROOKS RANGE.

DEC. 6, 1960- PLO 2214 CREATED THE ARCTIC NATIONAL WILDLIFE RANGE, WITHDRAWN FROM ALL FORMS OF APPROPRIATION UNDER THE PUBLIC LAND LAWS, INCLUDING THE MINING BUT **NOT** THE MINERAL LEASING LAWS. UNDER THE REGULATIONS IN EFFECT AT THE TIME, NO LEASING COULD OCCUR UNTIL LEASING MAPS WERE PREPARED AND AGREEMENT WAS REACHED BETWEEN BLM AND USFWS.

IN THE LATE 60'S BLM PREPARED LEASING MAPS CONSISTING OF 2560 ACRE BLOCKS. SOME OF THESE BLOCKS STRADDLED THE CANNING RIVER. AN AGREEMENT BETWEEN BLM AND USFWS ALLOWED 15 "STRADDLE LEASES" TO BE ISSUED. ALL LEASE APPLICATIONS TO THE EAST OF THESE LEASES WERE REJECTED. THESE REJECTIONS WERE LITIGATED IN WALLER V HICKLE AND THE COURT FOUND IN FAVOR OF THE GOVERNMENT.

WITH THE EXCEPTION OF THESE "STRADDLE LEASES", ANWR HAS NEVER BEEN OPENED TO MINERAL LEASING UNDER THE 1920 ACT. SUCH LEASING WOULD HAVE REQUIRED AN AFFIRMATIVE ACTION ON THE PART OF THE SECRETARY. NO ACTION WAS TAKEN.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM LEGIBLY BECAUSE OF POOR QUALITY OF THE ORIGINAL.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

FEB 20 1986

Honorable Alfonse M. D'Amato
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This is in response to your recent inquiry on behalf of Ms. Elizabeth D. Levers concerning the exchange of National Wildlife Refuge System (NWRS) lands in Alaska.

We would first like to assure you and Ms. Levers that the Fish and Wildlife Service (FWS) is committed to fulfilling the intent of Congress as specified in the Alaska National Interest Lands Conservation Act (ANILCA) and has neither taken nor contemplated any action that would bypass the mandates of that Act. The FWS has conducted the resource assessments of the coastal plain of the Arctic National Wildlife Refuge (ANWR) as required by section 1002 of ANILCA and will provide a report to Congress by the September 2, 1986, deadline.

Several Alaskan Native corporations have contacted the Department of the Interior regarding the feasibility of exchanging private inholdings on a number of NWRS units in Alaska for mineral interests in areas of the ANWR. Such an exchange could result in very substantial benefits to the NWRS and the public due to the large amount of valuable wildlife habitat that would be acquired. This proposal is therefore being given serious consideration, and an extensive analysis of all possible implications of such an action is being conducted.

A team of FWS appraisers was sent to Alaska for the purpose of evaluating the Native inholdings on several refuges. Although this action was taken with the potential land exchange in mind, the information obtained will be of use in any future attempts to acquire these lands.

We disagree with the suggestion that an exchange of this nature would violate the provisions of section 1302 of ANILCA. Although an exchange would create private interests on the ANWR, it would actually result in a net reduction of private inholdings on Alaska refuges because of the multiple return expected for each acre of ANWR subsurface exchanged. Also, only the subsurface estate of the coastal plain lands would be considered for exchange, with surface ownership remaining vested in the Federal Government. Exchange agreements would contain such surface use provisions that are necessary to ensure protection of refuge resources and maintain the integrity of the area.

[redacted]

Pl. Exhibit 10

Regional Director, Region 7 (w/copy of incoming)

It is the Department's intention that implementation of an exchange involving subsurface interests in the ANWR will be contingent upon ratification or authorization by Congress. Furthermore, no exchange will take place unless Congress decides to open the ANWR to oil and gas exploration, development and production.

If an exchange proposal is presented to Congress, it will be pending before that body concurrently with, or after, the section 1002 report and the Secretary's recommendations regarding oil and gas development. All decisions on these issues will ultimately be made by the Congress, and members of the public will have ample opportunity to voice their opposition or support to any land exchange proposal.

Two further points of clarification are required in response to your constituent's letter. First, there have been no wells drilled within the section 1002 study area. The well Ms. Levers refers to is probably the exploratory well drilled outside of this area on land where both the subsurface and surface are owned by Native corporations. Nevertheless, this exploration was conducted in accordance with protective stipulations imposed by the BLM and no oil and gas development or production can occur on the Native-owned land within ANWR unless authorized by Congress in accordance with section 1002 of ANILCA. Secondly, we are unaware of any opposition to an exchange being expressed by Natives living on or near the ANWR.

Ms. Levers' sincere concern for the protection of the ANWR resources is certainly appreciated. However, we feel that our present course of action is in compliance with ANILCA and other applicable authorities, and in the best interest of the USFWS.

Sincerely,

Walter O. Stieglitz

Acting Associate
Director

Regional Director, Region 7 (w/copy of incoming)
Refuge Manager, Arctic NWR (w/copy of incoming)

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

FEB 04 1980

Honorable Daniel P. Moynihan
United States Senate
Washington, D.C. 20510

Dear Senator Moynihan:

This is in response to your January 14, 1980, inquiry on behalf of Ms. Elizabeth B. Levers concerning the exchange of National Wildlife Refuge System (NWRS) lands in Alaska.

We would first like to assure you and Ms. Levers that the Fish and Wildlife Service (FWS) is committed to fulfilling the intent of Congress as specified in the Alaska National Interest Lands Conservation Act (ANILCA) and has neither taken nor contemplated any action that would bypass the mandates of that Act. The FWS has conducted the resource assessments of the coastal plain of the Arctic National Wildlife Refuge (ANWR) as required by section 1002 of ANILCA and will provide a report to Congress by the September 2, 1980, deadline.

Several Alaskan native corporations have contacted the Department of the Interior regarding the feasibility of exchanging private inholdings of a number of NWRS units in Alaska for mineral interests in areas of the ANWR. Such an exchange could result in very substantial benefits to the NWRS and the public due to the large amount of valuable wildlife habitat that would be acquired. This proposal is therefore being given serious consideration, and an extensive analysis of all possible implications of such an action is being conducted.

A team of FWS appraisers was sent to Alaska for the purpose of evaluating the native inholdings on several refuges. Although this action was taken with the potential land exchange in mind, the information obtained will be of use in any future attempts to acquire these lands.

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Regional Director, Region 7 (w/copy of incoming

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If an exchange proposal is presented to Congress, it will be pending before that body concurrently with, or after, the section 1002 report and the Secretary's recommendations regarding oil and gas development and wilderness preservation. All decisions on these issues will ultimately be made by the Congress, and members of the public will have ample opportunity to voice their opposition or support to any land exchange proposals that may be under consideration.

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Ms. Levers' sincere concern for the protection of the ANWR resources is certainly appreciated. However, we feel that our present course of action is in compliance with ANILCA and other applicable authorities, and in the best interest of the NWRS.

Sincerely,

/sgd/ Ronald E. Lambertson

Acting Deputy Director

cc: Regional Director, Region 7 (w/copy of incoming)
Refuge Manager, Arctic NWR (w/copy of incoming)

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 12 1986

Honorable Benjamin A. Gilman
House of Representatives
Washington, D.C. 20515

Dear Mr. Gilman:

This is in response to your January 7, 1986, inquiry on behalf of Ms. Elizabeth B. Levers concerning the exchange of National Wildlife Refuge System (NWRS) lands in Alaska.

We would first like to assure you and Ms. Levers that the Fish and Wildlife Service (FWS) is committed to fulfilling the intent of Congress as specified in the Alaska National Interest Lands Conservation Act (ANILCA) and has neither taken nor contemplated any action that would bypass the mandates of that Act. The FWS has conducted the resource assessments of the coastal plain of the Arctic National Wildlife Refuge (ANWR) as required by section 1002 of ANILCA and will provide a report to Congress by the September 2, 1986, deadline.

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If an exchange proposal is presented to Congress, it will be pending before that body concurrently with, or after, the section 1002 report and the Secretary's recommendations regarding oil and gas development and wilderness preservation. All decisions on these issues will ultimately be made by the Congress, and members of the public will have ample opportunity to voice their opposition or support to any land exchange proposals that may be under consideration.

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Ms. Levers' sincere concern for the protection of the ANWR resources is certainly appreciated. However, we feel that our present course of action is in compliance with ANILCA and other applicable authorities, and in the best interest of the NWRS.

Sincerely,

Walter O. Stieglitz

Acting Associate

Director

Regional Director, Region 7 (w/copy of incoming)
Refuge Manager, Arctic NWR (w/copy of incoming)

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Nov 1 1988

Honorable Dale L. Bumpers
United States Senate
Washington, D.C. 20510

Note dates.
= G

Dear Senator Bumpers:

Thank you for your letter of August 15, 1988, urging the Department of the Interior to suspend its efforts to negotiate an exchange of native-owned inholdings in national wildlife refuges in Alaska for subsurface rights in the coastal plain of the Arctic National Wildlife Refuge. I regret the delay in providing a response to your concerns.

Since I have had no personal involvement in this matter, I have referred your letter to the responsible official, Assistant Secretary for Fish and Wildlife and Parks William P. Horn. Mr. Horn's explanation of the Department's position regarding this exchange is enclosed for your information.

I share and appreciate your desire to ensure that the future use of the coastal plain's resources be premised upon a sound and objective basis. I am confident that the current departmental efforts at exploring an exchange that will be subject to Congressional approval will not jeopardize our mutual goal.

Sincerely,

DONALD PAUL HODEL

Enclosure

cc: Regional Director, Region 7
Refuge Manager, Artic NWR

Pl. Exhibit 4

United States Department of the Int

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Akhiok-Kaguyak Exchange

Mr. Jack Wichers
2143 Larson Lane
Mount Vernon, Washington 98273

MAY 16 1985

Dear Mr. Wichers:

Thank you for your April 4 and 10, 1985, letters concerning the possibility of a land exchange between the Department of the Interior and Akhiok-Kaguyak, Inc.

As you are aware from conversations with the Fish and Wildlife Service (FWS) in Alaska, the Department, through the FWS, is interested in acquiring certain high quality brown bear habitat and other lands owned by Akhiok-Kaguyak, Inc., located within the Kodiak National Wildlife Refuge (NWR). You suggest in your letters that the corporation would be interested in a "surface for subsurface" exchange involving the Arctic NWR, similar to the one with Arctic Slope Regional Corporation (ASRC).

Before we could consider your proposal actively, the Department would need to address the issue of whether we should engage in any additional exchange involving Arctic NWR. You should understand that the ASRC exchange was attractive in large part due to the fact that ASRC had the potential right to acquire subsurface on the Arctic NWR pursuant to section 1431(o) of the Alaska National Interest Lands Conservation Act.

We will keep your interest in mind. Should the Department conclude that active consideration of further exchanges involving Arctic NWR would be appropriate, the FWS Regional Director in Alaska will contact you. Thank you again for your suggestions on behalf of Akhiok-Kaguyak, Inc.

Sincerely,

William P. Horn

William P. Horn
Deputy Under Secretary

cc: Regional Director, Region 7(w/copy of incoming)
Refuge Manager, Kodiak NWR (w/copy of incoming)

Pl. Exhibit 2

Jim Hansen Exhibit

Tape Transcription (from telephone address to IOCC, December 9, 1987)
Bill Horn

Unidentified Speaker

...carefully with you with an eye on its long range application as well as its immediate applications. So why don't you proceed and tell us from your vantage point, what the proposal means.

Bill:

Alright. Let me see if I can go through it from top to bottom with just enough of the history and to answer any of the questions you all may have. The proposed exchanges, and they're in a preliminary stage of proposal. As a result of negotiations between the Department of the Interior and 18 Alaska Native Corporations, the State of Alaska was a participant in the negotiations for 14 months until the State voluntarily withdrew this last March. The purpose of the negotiations was to see if we could structure a land exchange which would permit the Department, primarily the Fish and Wildlife Service to acquire approximately 900,000 acres of inholdings within the National Wildlife Refuges in Alaska. In return the Native Corporation receive approximately 106,000 acres of oil and gas subsurface rights in the coastal plain of the Arctic Wildlife Refuge and we had made it clear from the outset that this type of an exchange will be expressly subject to congressional review and

congressional approval. There is no intent to undertake any executive exchange. Now the Native Corporations are somewhat different from what most folks in the lower 48 are used to dealing with. They are for profit, business corporations chartered under state law. They are not tribes, they is no aspects of sovereignty in tribal jurisdiction intended to them. They are business entities that have native individuals as their shareholders and these corporations were created by 1971 act of Congress. The lands we are after, the 900,000 acres of refuge inholdings, are some of the premiere wildlife habitat in the State of Alaska. The centerpiece of the trade would basically reacquire for public ownership Kodiak Island which is the home of the largest brown bears and probably the finest brown bear habitat in Alaska. We'd pick up the most popular salmon stream in the State of Alaska for public ownership and other important waterfowl nesting areas. So our biologist are very keen on acquiring this particular acreage.

On the Oil and Gas side, the Coastal Plain of ANWR is approximately 1.5 million acres in size. Under this proposed exchange the Natives would receive 166,000 acres of subsurface estate. That represents approximately 11% of the acreage. Based on all of our geologic analysis and using the same valuation procedures that we've used to valuate onshore and offshore oil and gas tracts on the Federal side, it is our estimate that that acreage represents 15% of the

value of the coastal plain. What that means is that what is left on the table for disposition to a future oil and gas sale, assuming that is what Congress approves, would be 89% of the total acreage of the coastal plain in ANWR. Eighty-nine percent on structure acreage, that would be acres that overlay identified oil and gas drilling structures. We estimate that 85% of the value is still on the table for disposition to a competitive least sale, and that this remaining acreage and intended value would be expected to generate between 2 and 4 billion dollars in bonus revenues that obviously would be shared between the State of Alaska and the Federal Government.

We are still working through on these exchanges. Our expectation is that if they are approved by the Secretary, and they have not gone beyond my level, we would not be in a position to submit them to the Congress for its review and prospective approval until sometime in the late summer of 1988. That's kind of a short course and I'd be glad to answer any questions.

Unidentified Speaker

Bill, let me start. What kind of acreage are you taking over on the surface ownership for Fish and Wildlife.

Bill:

That would be 900,000 acres. And it's, it's, aah, as I said we... urintelligable... in the negotiations we asked the Fish and Wildlife Service to identify with those corporations that came to see us, the finest stuff they had. And so it's really premiere, Grade A wildlife habitat.

Unidentified speaker:

Well Bill, how much do you own and how much does Fish and Wildlife own in Canada or aah in Alaska right now?

Bill:

Well, right now we have approximately 70 million acres of land. All of these acres are inholdings. That happen to be inside the refuges. And the natives obviously, just like the state, when the state was at the table with us, are interested in trading out the inholding, because it's generally difficult not withstanding laws and statutes, to go ahead with economic development projects within the boundaries of refuges and parks and stuff. They would much rather trade us those inholdings and eliminate those kinds of conflicts and pursue their economic opportunities outside.

Unidentified speaker:

Are you aware that the Western Governor's have unanimously passed a resolution asking for the return of imminent domain over such lands and is that part of the consideration here?

Bill:

It's not. Frankly, in Alaska, the Federal Government, we the Federal Government does not have imminent domain in the boundaries of parks and refugees boundaries in Alaska. At least as it relates to state land and native corporation land. So...

Unidentified speaker:

So the state would retain imminent domain here.

Bill:

Well, let's put it this way. I'm not sure that the State has it right now. Aah, we have not done anything under this exchange issue to upset the relative rights and duties of the different parties. This would merely be a land transaction. Without any other intended change in statutes toward rights and responsibilities.

Unidentified Speaker:

Well in respect, it is very much like a lower 48 indian reservation then.

Bill:

No, no quite to the contrary. These lands are held in sea by the four profit corporation. They are subject to state criminal and civil jurisdiction. They are subject to state taxation. The corporations are indeed chartered under state law. So they are totally different than what you deal with in the lower 48.

Unidentified speaker:

So then the State must have imminent domain.

Bill:

Then it probably does.

Unidentified Speaker:

Ok.

Let me see what I have, questions for the rest of these folks.

The valuation of the 900,000 acres, versus the 166,000 acres subsurface rates.

Bill:

The way we did it, we negotiated with the Natives to assign a dollar value to their land at which point each corporation based on how much acreage they put in and how relatively valuable it was, basically received in essence kind of a credit. One of the corporations put in 220,000 acres of land that as a result of our negotiations we valued at 121.7 million dollars and then each corporation thought a tract identification process was allowed to pick surface tracts in ANWR that equalled the value of land they were putting up. So by all rights we are obtaining 538 million dollars worth of land and tendering onto this exchange to the natives 538,000 million dollars worth of subsurface estate to the natives. It was done on a value per value basis.

Unidentified Speaker:

If the 900,000 that's being exchanges had been put out for bids, what's your best guess as to what the tribe would have received for it?

Bill:

It's really hard to say. In much of the parts in Alaska there is very little market for land. What we did was over the last years, Congress starting in 1976, has approved a whole series of land transactions in the State of Alaska, and with those land transactions, they set some values. So we figures that since we were going back to Congress, we would utilize the valuation approach that Congress has previously employed. And I'll give you some examples now. In this particular case, the aggregate value of the 900,000 acres of land we are getting comes in at 602 dollars per acre. For comparison purposes, Congress approved a acquisition in the Islands off the coast of Alaska, and we paid 767 dollars per acre in 1987 dollars, according to the Congressional valuation. Congress settled some land claims with one of these Corporations in 1976 and assigned a value of 935 an acre which frankly did not have the environmental value of what we are picking up here. The way that stacks up against National acquisition, all of our federal acquisitions under land and water conservation fund in 1986 averaged $1227 dollars per acre and our average purchases under the migratory bird conservation act came up to $665 dollars an acre, so in essence we pegged ourselves to what Congress had done in the past then compared it to what our other acquisitions of like kind...unintelligible...- environmental land came out and compared that to the acquisition price here is lower than what Congress has shown an

inclination to approve and lower than what our lower 48 acquisitions are running at.

Unidentified Speaker:

Bill, the next question is how do you anticipate getting public bidding on subsurface rights before this transaction is finalized?

Bill:

What we had in mind was basically to have this transaction finalized as part of or possibly at some time shortly thereafter, Congressional action to open up the Arctic Refuge to Federal Oil and Gas leasing program. And given the fact, as I said, 89% of the acreage is still there, eighty five percent of the value, we then presumed that this particular piece of the 11% would in essence be taken off the table through the land exchange. It's the remaining 89% that we would dump for competitive bidding and then based on our analysis, we would expect a competitive lease sale on that remaining almost 90% of the acreage to generate somewhere between two and four billion dollars.

Unidentified Speaker:

So no other U.S. group could bid on that tract.

Bill:

No. In other words, what we would do if the exchange is approved, the natives would own fee interest in the subsurface of the tracts they selected. Now they obviously then have the ability to have a private transactional arrangement with an oil company and have a private sector to private sector lease arrangement.

Unidentified Speaker:

And how did you determine the value of that tract?

Bill:

The subsurface tracts were all valued using the same methodology that our Minerals Management Service, BLM, and U.S. Geological Survey used, when we valued tracts for competitive bid oil and gas sales, both onshore and off. The minerals economist, have got the computer models. They've built in the risk factors, then look at the available geologic information. Then that say, it spits out a number that says tract X under our system is worth 25 million dollars. And then in order for a bidder to acquire that tract, he or she must bid at least $25 million dollars. If it comes in at $21 million dollars, we reject the bid as being insufficient. We use that same system to fix the

value of these tracts, and some tracts were valued as millions and millions of dollars, and some were valued at 85 million dollars based on the risk factors of the same model. And then the Natives of course can select. They tender this about 120,000 acres of land. We estimated and we valued that land at about $77 million dollars. And they used all of their credit so to speak to select one tract that we valued at $77 million dollars. Some other corporations went for more acreage and took an awful lot of minimally valued tracts. Those numbers on the subsurface valuation were not negotiable, they were set by the standard Federal process. The Natives could then acquire it by giving up X amount of the value of the land they offered to us.

Unidentified speaker:

I have a question from Dale Nations from Arizona.

Dale Nations:

Wouldn't it be a valid assumption that the 11% that has been selected of all that available acreage would be the prime oil and gas producing or the areas with the highest producing potential?

Bill:

No, frankly some of the highest value areas were so valuable and had such large price tags attached to them that many of the corporations avoided them. Now to take some of the bigger structures and then some of the tracts up on the crest were up in the $70 and 80 million dollar range and some of those were selected, but many of them were left behind because some of the corporations in our exchanges didn't have enough value to pick it up. One corporation spent all of its time in picking minimally valued off structure acreage. They got alot of acreage, but none of it is over structures, at least identified by our people. They frankly didn't have enough value to go out and hygrade the place and take all the creme de la creme. So there is an enormous number of ...89% of the on structure acreage is still there and 85% of the value is still there, which is clearly indicative that there is an awful lot of valuable stuff still on the table for disposition to a competitive lease sale.

Unidentified speaker:

I have a question from Phil Patman of Texas.

Bill Horn:

Mr. Secretary, do you have an opinion as to how the timing of exploration or oil and gas might be affected by your

procedures for exchanges as compared with a set of circumstances whereby you would proceed completely by the competitive bidding process?

Bill:

That has been a major issue that has been the subject of a whole lot of debate. The way proposal is presently constituted within the Department is that once Congress authorizes the ANWR opening and once Congress would approve these exchanges, the Natives would be able to go out and immediately be conducting the seismic and exploratory drilling work on their property in advance of the Federal lease sale. Now, some people in the oil industry have said that that puts 10 or 11 companies that have gotten contractual arrangements with these Native Corporations at a competitive advantage in a subsequent lease sale. Our economists have looked at it and said well we like the idea because if the prospects and potential for oil discoveries are as high as we think they are and these guys make discoveries, share the information with us, the value on our surrounding tracts are going to go up and so we are going to make more than 2 to 4 billion dollars worth of revenue. Frankly, some of the environmental community has criticized us because they see the exchange as a guarantee that there is a drilling program immediately without having to wait for all the Federal environmental stuff where they can bring legal action, so

this whole question of timing is still up for grabs and they said our current proposal is let the Natives proceed after Congress opens the area if the exchanges are approved. But I do know that that's probably one of the more controversial aspects of the pending proposal. And it is still subject to change either by the Secretary or by the Congress.

Unidentified Speaker:

Follow up then, I take it it's at least possible that the speed of exploration might in fact be greater, as I understood your comments, should you proceed with the exchange rather than wait and proceed entirely by bidding situation?

Bill:

Absolutely, because we look at the following even if Congress were to act in the next week to open up the ANWR. We have to go through the normal environmental impact statement process and all the consultations with EPA and everything. We are probably looking at 24 months before we could conduct a least sale. So let's assume we start working in January of 1988, we don't conduct a lease sale until probably December 1989 or January 1990. You would then get the applications in for the exploratory drilling. You probably don't have the drilling commencing until sometime in 1991 or 92. And that is assuming that somebody

doesn't successfully sue us and string it out for a couple of years. If however, the current proposal were adopted, the Natives of course are permitted to go out and drill and secure the permits without waiting for environmental impact statements and the rest and while we are being or writing our EIS's and improving exploration plans and being sued by certain groups, the natives can be out there drilling with their industry partners right off the bat. So there is a significant chance that exchanges could accelerate the beginnings of ...unintelligible...exploration by a couple of years. Of course that has been one of the concerns that oil companies that aren't part of this exchange. They are worried about the competitive disadvantage by these other people getting the head start.

Unidentified Speaker:

To follow up on that, there are a couple of other questions, so very quickly, do most of these groups have pre--established arrangements with oil companies?

Bill:

Yeah. Everyone of them did. You see, when we went to...they wanted to make the selections in the coastal plan and we would not let them see the proprietary information that we have acquired from the private sector about what's

under the ground. Most of the native corporations went out and made those contractual arrangements with partners in the oil industry. And of course that's where the Natives got the information as to which tracts they ought to select, whether or not at least in their partners mind, we had valued it properly. Right now, I think at last count, the Native groups have got eleven oil companies that are in the partnership arrangements, in different forms and combinations with the Native entities.

Unidentified Speaker:

We have a questions from Diane Nielson from Utah.

Diane Nielson:

I'd like your response sir on the concern that's been raised that you are essentially rewriting policy and procedure in terms of offering or disposing of Federal oil and gas lands.

Bill:

Could you repeat that? We had a jet airplane go by the window.

Diane Nielson:

I would like your response to the concern that you are rewriting the policy and procedure for disposing the Federal oil and gas lands by effecting these trades in place of competitive lease sales.

Bill:

We have routinely engaged in land exchanges for many years using both surface and subsurface assets. I'm familiar with various exchanges that involve coal lands for example. Now, I am not cognizant of any exchanges that the Federal government has engaged in that involved oil and gas rights, but we have done exchanges involving coal rights, phosphate and other subsurface mineral estates. In that sense we are just dealing with a different commodity here. You know, there is pretty clear precedent for this type of an approach and sense we have gone through a rather rigorous evaluation procedure, we've made sure that it's on a value for value basis and of course the fact that we are going to submit it to congress for review and approval, I think builds in some guarantee that, I suspect that this is not going to be a run of the mill operation.

Unidentified Speaker:

Mr. Secretary, I have a question from Mr. Tom Segal from Michigan.

Tom Segal:

Mr. Secretary, in determining this, estimating this surface values of the tracts you are look at, were the surface values just purely real estate type of estimates or were environmental values, were dollar values tagged as far as environmental values that aah...

Bill:

What we used in Alaska, Congress has given us frankly the only State in the Union where we have this, we can either purchase land based on a standard fair market determination or what is a public interest determination. We've looked at both angles here and our valuation was based on kind of a four corner box. We look at the fair market value, we looked at the relative environmental values as to how important are these lands environmentally we looked at what congress has been willing to assign value for comparable land and then lastly we have what we call sort of an efficiency index. Giving two examples, under the terms of Federal law most of this land has to be surveyed and ultimately conveyed to the Native Corporations with a standard patent. It costs us millions of dollars to put people out in the remote corners of Alaska, to stick the monument corners down and convey the land. Obviously because if we're getting a land exchange we wouldn't have to through the cost of

conveyance. We're also required by Federal law to provide free fire control services on Native land so if a fire breaks out the corporation calls us and says send your smoke jumpers to put the fire out. ...Unintelligible...obligation terminates so we looked at as a fourth component, by acquiring this land and mocking up the areas we didn't have these inholdings, what types of savings would we accrue over time in terms of reduced fire prevention, in terms of reduced conveyance requirements and that was the fourth feature of our sort of valuation box. We did put the values together using that matrix and then as I said we compared it to be sure we were in line, we compared it to what we had acquired in Alaska previously, what the prices were there and then we compared it to what we were acquiring in environmental comparable land in the lower 48 for, and found out that our values were on the low end of the scale.

Unidentified Speaker:

I have a question from Bill Smith from the State of Colorado.

Bill Smith:

Mr. Secretary, was any consideration given prior to the innovation of this particular exchange to perhaps exchanging some of the presently owned 70 million acres of less

valuable wildlife resources for these more valuable wildlife resources?

Bill:

We looked at some of that the problem is this. Once you're inside the refuge boundaries, and I think many of you may know, the law may give valid existing rights but politically it has proven exceedingly difficult for people to exercise those rights inside refuges or parks. Many times somebody wants to go ahead with their mining claim or drill and oil well in a wilderness area where they had a pre-existing lease, you know the environmental community get into an enormous uproar, we get dragged up here for an oversight hearing and so the general approach is that most of the private land owning people say look, we want out of being inside of your refuges and your parks because notwithstanding all these statutory promises, getting those promises redeemed by the governments and the courts is exceedingly difficult and yes we talked about trading other lands but most of them said look, we want something that will have some real economic opportunity to it, we want to be partners in the future development of the North Slope, ANWR is the place where the action is and we the Native Corporations would like to basically be partners in that operation at least to some limited extent and so offering them other lands and opportunities was basically rejected by them.

Unidentified Speaker:

We have a question from Fred Steese from the State of South Dakota.

Fred Steese:

Mr. Horn, I'd like to know if in your opinion if there is a danger if these trading action will set precedence for land disputes with American Indians elsewhere in the United States, ve sa ve???a bill of Senator Bradly from New Jersey relative to the Black Hills of South Dakota?

Bill:

I don't think so, because say if you were dealing with Native Corporations, the arrangement of Alaska is radically different than from the lower 48. They acquire these lands in fee, they are subject to State and Federal taxation and are subject to all State controls, if we ever try to engage in a land exchange with a lower 48 indian tribe, we get all fouled up because most indian land, United States holds it in trust for the indians, so we are kind of trading with ourselves, plus of course when indians acquire another piece of land, that's right now in the private sector, it frequently then gets taken into trust at which point, the state jurisdiction is significantly and substantially diminished.

Because we are dealing here with these Corporations which are chartered under state law, it's a totally different legal animal, and frankly we shouldn't even stop...they happen to be Native Corporations because they have Native shareholders but there are non-native shareholders in these organizations and they are by law non-racial institutions, so I think there is enough ...unintelligible...differences in the Corporations in Alaska and the tribal institutions in the lower 48 that I don't think we are setting up any precedent. We are not intending to because, I've had to deal with enough indian problems in different places that the headaches that get attended to creation of new trust lands, I personally would rather do without.

Unidentified Speaker:

Question from Craig Newman of Wyoming.

Craig Newman:

Mr. Horn, the value that was utilized to trade for the tracts in ANWR could that be a combination of value assigned to the surface estate and cashed from the industry participants or only surface values as determined under your process?

Bill:

The thing that we did was take the surface value of the lands we're acquiring for the refuge system, negotiated out the value which in this case came out to $538 million and then the Corporation were allowed to pick the tracts in ANWR that did not exceed an aggregate $538 million dollars in whatever combinations they wanted. So it was, we made it on a value for value basis, nobody offered up any cash to us, we want to keep it a pure land exchange without getting the cash component into the deal.

Unidentified Speaker:

We have one final question from from Diane Nielson again from Utah.

Diane Nielson:

How much money or what is the difference in revenue to the Federal Government in the land trade as opposed to offering these lands to competitive leasing, the 11% that is being traded?

Bill:

The math is fairly straightfoward. Our people estimate that 11% acreage is worth $538 million dollars. That $538 million dollars represents 15% of the aggregate subsurface

value of the coastal plain. We in order again to maximize the up front value to the United States and minimize our risks, the exchange does not reserve any royalty to the United States Government. That was basically built in up front in the valuation. The result is that the tracts are valued between 30 and 40 percent higher than they would be if we were reserving 1/6th or 1/8th royalty. We basically made the Native Corporations pay us for the royalty up front even if they don't find anything. In terms of foregone bonus revenue, take the 538 discount it by approximately 30 to 40 percent, that would be the amount of money roughly that we expected to get if we put those tracts up for competitive bids. Our estimate in rough terms is that this land exchange costs us approximately $400 million dollars in cash bonus bids that we otherwise would have gotten.

Diane Nielson:

Does that include bonus and royalty? Thirty to 40 percent includes bonus and royalty?

Bill:

No, that's just basically the bonus.

Diane Nielson:

Where is the royalty consideration?

Bill:

As I said we have taken the royalty and built it in. That's why the tracts are valued at basically 538. They were inflated 30 to 40 percent because we did not reserve the royalty. We built that risk factor in. In essence we have already collected for the royalty in the difference between 400 and 538.

Unidentified Speaker:

Mr. Secretary, we've got a busy schedule so we've got to get back. Thank you very, very much for your availability and for your straightfowardness in answering these questions. I think everyone here is very greatful. We anticipate being back to work with you on a discussion of this because these people involved here are probably the most knowledgeable in oil and gas leasing and operational problems in the United States and they are very interested in the States, and through the IOCC probably will take a vigorous stand, either for or against or in favor of revision of this proposal. So this has been very, very helpful to us. I want to thank you on behalf of the group.

Bill:

Thank you and I appreciate the flexibility and any other questions just please feel free to call.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

TRUSTEES FOR ALASKA, et al., Plaintiffs, v. WILLIAM P. HORN, Assistant Secretary of the Interior for Fish, Wildlife and Parks; et al., Defendants, and KONIAG, INC., et al., Intervenor-Defendants.	Case No. A87-118 Civil

SUPPLEMENTAL DECLARATION OF WILLIAM P. HORN

William P. Horn, upon personal knowledge, deposes and states as follows:

1. This declaration is submitted to supplement my declaration of May 20, 1987 and is given to inform the court of the current status of the Arctic National Wildlife Refuge (ANWR) exchange negotiations.

2. On June 1, 1987, Secretary Hodel formally transmitted the final 1002(h) report and legislative environmental impact statement (LEIS) to Congress. Congressional consideration of the Secretary's report is proceeding. The Secretary and I testified on the 1002(h) report before the House Subcommittee on Water and Power Resources in April and May of this year, before the Senate Committee on Energy and Natural Resources on June 2, 1987, and before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment on June 24, 1987. Questions concerning the potential ANWR exchanges were addressed during the hearings before the House Subcommittee on Water and Power Resources and the Senate Committee on Energy and Natural Resources. Members of all of the above-mentioned committees are planning to visit the 1002 study area during the month of August, 1987. Furthermore, members of two of these committees are also planning to visit some of the native-owned lands under consideration for acquisition through the contemplated ANWR exchanges during their August trip to Alaska.

3. During the first two weeks in June of 1987, the ANWR negotiating team met collectively and separately with representatives of Koniag, Inc.; Doyon, Ltd.; Native Lands Group, L.P.; Akhiok-Kaguyak, Inc.; Old Harbor Native Corporation; and

Gana-A' Yoo, Ltd., for the purpose of further exchange negotiations. During this period, I also met with the ANWR negotiating team and the representatives of these six native entities to address issues raised in the negotiations. By June 12, 1987, I reached agreements in principle on the terms, subject to tract identification outlined in my prior declaration and in paragraph 4 below, of the land exchange proposals embodied in the six draft exchange agreements being negotiated with these entities and two of the appendices intended to be attached thereto. However, these draft exchange agreements and their appendices do not have formal departmental clearance and all of the parties to these negotiations recognize that these documents may be changed upon further review.

4. I, acting for the Department of the Interior, and representatives of the above-mentioned native entities, have also entered into an agreement, which became effective June 15, 1987, establishing the procedures for the identification and allocation of a limited number of tracts within the coastal plain portion of ANWR to these potential land exchange participants. In entering into that agreement, the parties expressly agreed that nothing in it or its implementation constituted a commitment, assurance or guarantee that any, some or all of the contemplated exchange agreements would ever be executed or that the interests identified for exchange in the ANWR tracts allocated pursuant to that agreement would ever be conveyed to the participants. The decision whether to enter into, conditioned upon subsequent approval by

Congress, any of the contemplated exchanges still has yet to be made, and, as indicated in my declaration of May 20, 1987, I do not expect it to be made for several months following the completion of the ANWR tract identification process and circulation of a draft LEIS for public comment. On July 6, 1987, the procedures governing the ANWR tract identification process were modified slightly by agreement of the parties to the June 15 agreement so as to eliminate certain ambiguities and redundancies and to correct certain technical deficiencies.

5. By July 6, 1987, I also reached agreements in principle with the above-mentioned six native entities on the values, legal descriptions, and acreages of the lands and selection rights that they propose to convey or relinquish as their part of the contemplated exchanges. As a result of our negotiations, these six entities, which represent eighteen native corporations, are tentatively offering to exchange approximately 895,000 acres of native-owned surface estate within seven national wildlife refuges in Alaska for oil and gas interests of comparable value within the ANWR's coastal plain.

6. On July 9, 1987, representatives of Department and the above-mentioned six native entities met for the purpose of identifying which particular ANWR tract or tracts each native entity might acquire should the proposed exchanges subsequently be completed. That tract identification session ended on July 11, 1987. As a result of the tract identification process, up to a total of 65

whole tracts and 8 partial tracts from a total of 576 tracts within the ANWR's coastal plain were allocated among these six native entities. The allocated tracts constituted approximately 166,000 acres or up to 10.8 percent of the approximately 1.53 million acres in the federally owned portion of the coastal plain. For the purpose of the ANWR tract identification process, the coastal plain was divided into tracts which are each approximately 2560 acres, but not all of these tracts are uniform in size. The parties to the identification process recognize that this allocation of tracts does not guarantee that the Department will ever convey the interests identified for exchange in a particular tract to the prevailing participant.

7. Under the provisions of the ANWR tract identification procedures, each potential land exchange participant has ten working days following the end of the tract identification session to notify the Department whether it wishes to proceed with the land exchange process. This ten-day period may be extended for good cause. Therefore, I do not expect to know before July 24, 1987 whether all of the native entities with whom we have been negotiating will wish to proceed with the exchange proposals. And, because of the provision allowing for an extension, it may be some time after that before the Department actually receives notice of a participant's position on the desirability of continuing the exchange process. Accordingly, the numbers given in paragraph 6 of this supplemental declaration represent the maximum amount of federally owned land within the coastal plain that might be

conveyed as a result of the contemplated exchanges. The withdrawal of one or more of the above-mentioned native entities from the exchange process would reduce these figures.

8. Further exchange negotiations and certain other administrative actions that we are still committed to doing if the exchange proposals are to be forwarded to the Secretary and the Congress for approval have been suspended pending the outcome of further congressional consultations requested by the Chairman of the Senate Committee on Energy and Natural Resources. These activities include further contract negotiations, the preparation and submission of any recommendations to the Secretary that he execute the contemplated exchange agreements, any renegotiation of the exchange agreements that the Secretary deems necessary, the preparation and submission of any recommendations that Congress approve any executed exchange agreements, and the preparation and circulation of an accompanying LEIS. The duration of this suspension is unknown.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 14th, 1987.

William P. Horn

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

TRUSTEES FOR ALASKA, et al., Plaintiffs, v. WILLIAM P. HORN, Assistant Secretary of the Interior For Fish, Wildlife and Parks; et al., Defendants, and KONIAG, INC., et al., Intervenor-Defendants.	Case No. A87-118 Civil

DECLARATION OF WILLIAM P. HORN

William P. Horn, upon personal knowledge, deposes and states as follows:

1. I am the Assistant Secretary for Fish and Wildlife and Parks, United States Department of the Interior. As such, I supervise the Director, United States Fish and Wildlife Service (FWS), pursuant to the authority found in section 3 of the Fish and Wildlife Act of 1956, as amended, 16 U.S.C. § 742b. I became the Assistant Secretary for Fish and Wildlife and Parks on August 2, 1985. Before that, I was the Deputy Under Secretary of the Interior. I was appointed to that position in March, 1981. In that capacity, I was the Secretary of the Interior's representative within the Department responsible for providing policy guidance on Alaska matters. Before that, I worked as the Minority Staff Consultant on the Subcommittee on Alaska Lands and subsequently the full Committee on Interior and Insular Affairs, U.S. House of Representatives, during the passage of the Alaska National Interest Lands Conservation Act (ANILCA).

2. For approximately the past two years, representatives of the Department have been discussing the possibility of acquiring certain lands within national wildlife refuges owned or selected by Alaska native corporations by exchanging them for limited interests in lands in the coastal plain of the Arctic National Wildlife Refuge (ANWR). Within the Department, the responsibility for pursuing such potential exchanges has, subject to my ultimate supervision and control, been divided between the FWS's Regional Director in Alaska, the ANWR negotiating team, and the Assistant Secretary for Fish and Wildlife and Parks. The Regional Director is primarily responsible for identifying the refuge inholdings

sought to be acquired through exchange and preparing the administrative record associated with the exchange process. The ANWR negotiating team, which is comprised of representatives of FWS, the Solicitor's Office, and the Bureau of Land Management (BLM), is primarily responsible for negotiating the terms and conditions of the proposed exchange agreements. I, as the Assistant Secretary for Fish and Wildlife and Parks, am primarily responsible for providing policy guidance to the FWS and the ANWR negotiating team and for negotiating the values of the refuge inholdings sought to be acquired from the native corporations. While departmental efforts are proceeding on these three fronts, I am periodically informed by the Regional Director and the ANWR negotiating team of the status and results of their efforts and consulted on policy questions that arise during this process.

3. The Department is currently negotiating potential ANWR exchanges with five different native entities. These are (1) Koniag, Inc., a regional corporation which is merged with certain village corporations within its region, (2) Doyon, Ltd., a regional corporation on behalf of itself and Gana-a' Yoo, Ltd., a merged corporation comprised of several former village corporations within the Doyon region, (3) Native Lands Group, L.P., a limited partnership consisting of a subsidiary of Cook Inlet Region, Inc., a regional corporation, The Aleut Corporation, a regional corporation, and several village corporations in the Cook Inlet and Calista regions, (4) Akhiok-Kaguyak, Inc., a merged corporation comprised of two former village corporations in the Koniag region,

and (5) Old Harbor Native Corporation, a village corporation in the Koniag region. They are hereinafter referred to as the "native corporations."

In the past, discussions have also been held with representatives of the State of Alaska and the Arctic Slope Regional Corporation (ASRC) as potential participants in the ANWR exchanges currently under consideration by the Department. Departmental representatives may continue to confer with State representatives because of the State's asserted regulatory interest in oil and gas activities and fish and wildlife matters, and with ASRC's representatives because ANWR is located in ASRC's region and ASRC owns subsurface interests within ANWR. But, the Department is not presently negotiating any exchange involving ANWR lands with either the State of Alaska or ASRC. The State's withdrawal from the negotiations was noted by me on page 2 of a March 6, 1987 letter to Sam Cotten, Co-Chairman, House Resources Committee, Alaska State Legislature, which is attached hereto as Attachment 1.

As the negotiations continue, it is possible that the alignment of the corporations described above may change; that some of the above corporations may, for reasons of their own, drop out of the negotiations; and that other parties may seek to join or rejoin the negotiations. The identities of the parties with whom the Department is negotiating ANWR exchange agreements and their relationship to each other is still fluid at this point. Obviously, these two factors, i.e., the identities of the potential

exchange participants and their relationships, have a direct bearing on the exchange proposals being formulated and the terms of the exchange agreements being drafted.

4. The exchange agreements being negotiated contemplate the trading of dissimilar interests in lands, i.e., primarily native-owned or selected surface estates for federally owned oil and gas interests. Since the interests to be exchanged are so dissimilar, their monetary value, rather than acreage, is intended to be the basis for the exchanges. In addition, since section 1302(b) of ANILCA, 16 U.S.C. § 3192(b), precludes the Department from condemning refuge inholdings owned by native corporations, acquisition of such lands can only be accomplished by the Department on a willing-seller basis. These factors necessitate that an agreement in principle be reached between each native corporation and the Department on the identity of the refuge inholdings or selection rights that each native corporation proposes to convey or relinquish, and the monetary values to be ascribed to those lands and selection rights.

These two steps have required the performance of several preliminary tasks, including the evaluation and ranking of native inholdings, the development of property descriptions, the calculation of acreages, the review of resource and other public interest values, the determination of the legal status of the parcels under consideration, and the preparation of real estate appraisals.

5. The exchanges now being actively discussed would involve the acquisition by the FWS of approximately one million acres in seven different refuges. These refuges are the Alaska Maritime, Innoko, Kanuti, Kenai, Kodiak, Nowitna, and Yukon Delta National Wildlife Refuges. An acquisition project of this magnitude requires considerable time and effort in the performance of the above-described tasks. The Department is at different stages in reaching agreements in principle with the native corporations on the identification of the refuge inholdings proposed to be acquired and the establishment of the values proposed to be given for those native interests. We hope to reach agreements in principle on these two issues with all the parties with whom we are negotiating some time in June of this year.

Reaching agreements in principle on the lands proposed for acquisition from the native corporations and their contemplated values is essential to the development of the ANWR exchange proposals. The refuge inholdings constitute the native corporations' trading stock. Without agreements in principle on the value of that trading stock, the parties cannot ascertain which subsurface tracts in the ANWR's coastal plain the native corporations could possibly afford to acquire. The approach that I am using to value the native corporations' refuge inholdings is more fully explained in a February 20, 1987 memorandum from me to the ANWR negotiating team, attached hereto as Attachment 2. This memorandum also served as the enclosure to Attachment 1.

6. Identifying the lands proposed for acquisition from the native corporations and their proposed values addresses, however, only half of the bilateral trades being discussed. Yet to be determined are the particular tracts within ANWR in which the Department would propose to convey the oil and gas interests to the native corporations. The native corporations have repeatedly informed the Department that, without knowing which particular ANWR tracts that they might be able to acquire oil and gas interests in through exchange, they cannot determine whether they have a real interest in going forward with the exchange process.

We have informed the native corporations and others who have inquired about our plans that we will allow the native corporations to commence the ANWR tract identification process once three conditions precedent are satisfied. These include: (1) an agreement in principle between the Department and each potential exchange participant on the value, legal description, and acreage of the lands which that participant proposes to convey to the Department through exchange; (2) an agreement in principle on the basic terms of the proposed exchange agreement and the accompanying operating stipulations designed to protect ANWR resources and values; and (3) an agreement on the ground rules to be used in identifying and allocating ANWR tracts to the various potential exchange participants. See page three of Attachment 1.

The reason for the first condition precedent has been explained above. The reason for the second condition is that the rights and interests proposed to be conveyed, as well as retained, within ANWR by the Department and the manner of their enjoyment

will affect the values ascribed by the Department to the ANWR tracts. The nature of these rights and limitations (e.g., the proposed determinable fee in the ANWR tracts) will be set forth in the proposed land exchange agreements. The BLM is responsible for ascribing value to the oil and gas interests in the coastal plain in a manner which conforms to standards required for federal oil and gas evaluations. BLM's evaluation includes a technical review and interpretation of data relating to the recoverable oil and gas resources and the economic inputs associated with the type of activities contemplated in the proposed exchange agreements. The values being established by BLM are not subject to negotiation.

The third condition precedent is needed because the Department is negotiating bilateral exchange agreements with five native corporations simultaneously. We anticipate that these corporations may seek to acquire some of the same ANWR tracts through the exchange process, and, therefore, we are attempting to design an tract identification process which will be fair and orderly. The third condition precedent will ensure that the potential exchange participants agree to abide by common procedures before tract identification commences and conflicts arise.

7. While the first condition precedent to tract identification has yet to be fully satisfied, further negotiations between the ANWR negotiating team and the native corporations' representatives are necessary before the second and third conditions precedent to tract identification can be satisfied. The continuation of these negotiations, presently scheduled for the first week of June, 1987,

will address revisions in (1) the terms of the proposed exchange agreements, (2) a proposed subsistence easement intended to be reserved by the native corporations on the lands that they convey to the FWS, (3) the operational stipulations proposed to govern the exercise of the native corporations' rights in ANWR, (4) the proposed ANWR tract identification procedures, and (5) the agreement proposed to govern the ANWR tract identification process. Items (2) and (3) are intended to be appended to item (1), and item (4) to item (5). It is our hope that agreements in principle will be reached between the ANWR negotiating team and the native corporations' representatives on the proposed exchange agreements and the easement and stipulations (which are modeled after the recommendations in the 1002(h) report) in June. It is our further hope that the Department and the native corporations will also agree to the ANWR tract identification procedures and the accompanying cover agreement for the ANWR tract identification process in June.

8. Because Koniag first submitted a draft exchange agreement to the Department in May of 1986, the proposed Koniag contract has served as the basis for developing a model exchange agreement. We envision a series of bilateral exchange agreements in which the basic contractual terms are the same, but which also contain differences based upon the differences in the histories and structures of the various potential exchange participants, the status of their lands, and their corporate needs. Therefore, this means that the exchange agreements being negotiated have to reflect

the generic terms found in the Koniag draft contract that are intended to be common throughout all of the exchange agreements, but also the special provisions which are intended to be unique to each of the five native corporations with which the ANWR negotiating team is negotiating.

9. Once agreement is reached on the ANWR tract identification procedures and cover agreement, and agreements in principle are reached on the refuge inholdings to be acquired by the FWS, their values, and the terms of the proposed exchange agreements, the Department and the native corporations who still have an interest in pursuing the potential exchanges plan to proceed with ANWR tract identification. The earliest time at which the various native corporations could identify the tracts that they would like to acquire is some time in July of this year.

The purpose of this tract identification process is to identify which particular ANWR tract or tracts each native corporation might acquire should the proposed exchanges subsequently be implemented. In other words, the purpose of the tract identification process is to ascertain the other half of the proposed exchange transactions, i.e., which ANWR tracts would be proposed for conveyance by the Department to the native corporations through the exchanges. Thus, completion of the ANWR tract identification process serves to enable the parties to outline yet another major ingredient of the exchange proposals.

Allocation of the identified ANWR tracts to the potential exchange participants through the tract identification process in no way guarantees that the native corporations will ultimately receive title to the oil and gas interests in those tracts. Even if the native corporations express an interest in pursuing the proposed exchanges after ANWR tract identification has been completed, the proposed exchanges will not be implemented until several other contingencies are satisfied. These include, among others, submission of a recommendation from me to the Secretary of the Interior that he enter into the proposed exchange agreements, approval and execution of the proposed exchange agreements by the Secretary and the native organizations, enactment by Congress of legislation opening ANWR to further oil and gas activities and ratifying the ANWR exchanges, and native shareholder ratification in those instances where such ratification is required as a matter of corporate law.

10. I myself have not yet made a final decision whether to recommend that the Secretary approve the proposed exchanges. Such a judgment on my part would be premature given the current status of the negotiations. That judgment depends on the nature of the total exchange proposal package. If, after the negotiations and tract identification are concluded, only one corporation wishes to pursue an exchange, it is possible that I might recommend that the Department forgo the exchange. Moreover, I have made it clear to the native corporations that Secretary Donald Paul Hodel has the

right to reject the proposed exchanges, and may choose to do so, despite any affirmative recommendation that I might make in their favor.

11. The ANWR exchange proposals are being negotiated pursuant to the authority found in section 22(f) of the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. § 1621(f), and section 1302(h) of ANILCA, 16 U.S.C. § 3192(h). Although the Secretary has the authority under these statutes to enter into these exchanges administratively (i.e., to convey title to the native corporations), I have consistently represented to the native corporations and the public that we would not carry out these exchanges without congressional approval. See page 1 of Attachment 1.

12. Plaintiffs characterize these exchange proposals as an alternative program for managing the coastal plain. I do not approach the exchanges from that perspective. The Secretary's proposed program recommendation is that the Congress open the coastal plain to further exploration, development and production by authorizing him to make federal lands throughout the coastal plain available for oil and gas leasing. I see the proposed exchanges as a parallel realty transaction, should Congress choose to make the coastal plain available for leasing, which is intended to be consistent with such leasing.

We seek congressional approval of the exchanges for reasons of policy. First, whereas we have the authority to convey legal title in interests in lands within ANWR to the native corporations now, they would not have the opportunity to enjoy the economic benefits that they seek from the exchanges until Congress enacts post-1002 and 1003 legislation. We recognize that it would be unrealistic and unfair for us to expect the native corporations to convey their refuge inholdings to the FWS before having any prospect for obtaining any real economic benefit from the ANWR tracts in return. Therefore, the parties to the negotiations mutually concur that making the exchanges contingent on future congressional action is the better course. Second, we recognize that in enacting sections 1002 and 1003 of ANILCA, 16 U.S.C. §§ 3142 and 3143, Congress reserved for itself the decision as to whether further exploration, development and production would be allowed to occur within ANWR's coastal plain. Therefore, it has been our feeling that Congress should have the prerogative to pass judgment on the merits of creating these inholdings within the coastal plain and to confer its endorsement on the exchanges if it finds them to be in the public interest.

13. Some persons, who have not been a part of the ANWR exchange negotiations, have been critical of our pursuit of these exchange proposals concurrently with the preparation of the report to Congress required by section 1002(h) of ANILCA, 16 U.S.C. § 3142(h). Plaintiffs have expressed the concern that the prospect of these exchanges would bias the Secretary's report

recommendations and subsequent congressional action in favor of opening the coastal plain to further oil and gas activities. The timing of these negotiations has been driven largely by the corporate needs of the native corporations, as well as the number and scope of preliminary administrative tasks that must be performed in order for the Department to participate in the formulation of the exchange proposals.

Nonetheless, I have been sensitive to the concern expressed over the objectivity of 1002(h) report. Therefore, I made the commitments that we would not forward any ANWR exchange recommendation to Secretary Hodel for his approval until after he had independently determined what type of future management regime for the coastal plain he wanted to recommend to Congress in the 1002(h) report, and that we would not submit any exchange agreement to Congress if for its approval until after the 1002(h) report had been formally submitted to it. See pages one and two of Attachment 1. I have kept both of these commitments.

Although Secretary Hodel has known in a very general sense that the ANWR negotiations have been ongoing, he was not briefed on the specifics of the exchange proposals until April 16, 1987. On that date, I personally briefed him on the identities of the parties with whom we are negotiating, the size and importance of lands that they are offering, and the nature of the contractual terms being considered. Well before that date, Secretary Hodel had selected full leasing as his preferred alternative for the future management of the coastal plain and the final 1002(h) report had been sent to the printer for printing. The report was released to

the public on April 20, 1987. I expect the 1002(h) report to be formally transmitted to Congress on June 1, 1987, but I do not expect any ANWR exchanges to be submitted to Congress -- assuming I choose to proceed, the native corporations concur, and Secretary Hodel approves them -- until the early part of 1988.

14. I have also made the commitment that we would provide an opportunity for the public to participate in the ANWR exchange process. This commitment was reiterated on page two of Attachment 1 and on pages one and two of my March 31, 1987 letter to Senator J. Bennett Johnston, Chairman of the Senate Committee on Energy and Natural Resources, which is attached hereto as Attachment 3. At the time that plaintiffs filed this lawsuit, no final decision had been made as to how such public participation would be handled.

There are a number of different ways that an opportunity for public participation might be afforded. These include undertaking voluntary public meetings, intergovernmental consultation, and circulation of analyses prepared in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., among others. The FWS had already initiated the preparation of ascertainment reports on the proposed exchanges, which are the functional equivalent of an environmental impact statement (EIS) in that they describe the proposed action, its impacts and alternatives. The use of ascertainment reports in lieu of NEPA compliance has been previously employed in Alaska in the 1983

Chandler Lake exchange, which was done administratively, and more recently in the Red Dog - Cape Krusenstern National Monument exchange, which was approved by Congress.

Because section 910 of ANILCA, 43 U.S.C. § 1638, provides that NEPA shall not be construed in whole or part as requiring the preparation or submission of an EIS for conveyances or other actions leading to the issuance of conveyances to native corporations pursuant to ANCSA or ANILCA, and because the proposed exchanges are being negotiated pursuant to exchange authorities found in ANCSA and ANILCA, it has been and still is our view that the proposed exchanges and any actions leading to the proposed exchanges are exempt from compliance with NEPA. This view is reflected in the Department's responses to public comments on the draft 1002(h) report, at page 206 of the final 1002(h) report, which is attached hereto as page two of Attachment 4.

15. However, the mere existence of the section 910 NEPA exemption does not require that the Department invoke the exemption on its behalf or preclude the Department from voluntarily preparing an impact statement. Inasmuch as the FWS had already planned to examine many of the factors that would be covered in an EIS, I have decided that the circulation of a draft legislative environmental impact statement (LEIS) would be a good vehicle for providing an opportunity for public review and comment on the proposed exchanges. Accordingly, I have directed the FWS to voluntarily prepare a two-step LEIS (i.e., a draft and final LEIS) to accompany the ANWR exchanges.

A meaningful opportunity for public understanding, analysis and comment on the proposed exchanges can only be provided once the major ingredients (i.e., the exchange parties, the lands to be traded, and the other basic terms of the exchange contracts) of the proposals have been outlined. Therefore, we do not plan to complete and circulate a draft LEIS for public comment until after the ANWR tract identification process has been completed and the participants in that process express an interest in going forward with exchange process. Until these preliminary steps are completed we will not have a clear picture of which lands we might be able to acquire or which lands we might convey through the exchanges.

Without this information, impact assessment for the ANWR beyond that which has already been described in the 1002(h) report will be highly speculative. Until the tract identification process is completed, we have no way of knowing whether the tracts that the native corporations would get if the exchanges are carried out will be compact and contiguous to each other or dispersed throughout the coastal plain, whether they will be situated over one or more hydrocarbon structures, whether they will be located in the western, eastern, northern, or southern part of the coastal plain, or whether they will be adjacent to the existing private inholdings within the coastal plain or surrounded by federal lands. All of these variables will affect the manner and pace with which these lands, assuming they contain oil and gas, might be further explored, developed and produced.

Assuming we are able to reach an agreement in principle on the property interests to be traded, we hope to circulate a draft LEIS for public review and comment in September of this year. Public comments received on the draft LEIS will be summarized and responded to in the final LEIS, and further changes in the proposed exchange agreements will be negotiated if needed. We do not expect the final LEIS to be completed before January of 1988. When the final LEIS has been written, it will be forwarded to the Secretary, along with any recommended exchange agreements. Provided that Secretary Hodel and the native corporations first choose to approve the proposed exchange agreements, the final LEIS will then accompany a departmental proposal to Congress that it ratify the referenced exchange agreements. We have not yet begun to draft the proposed ratifying legislation. We do not plan to do so until later this summer, assuming that the parties are at that time still interested in going forward with the exchange process.

16. While we have not yet solicited any public comments on the proposed exchanges because we are still in the midst of formulating the exchange proposals, we have not precluded anyone from expressing an opinion about or commenting on the proposed exchanges. Indeed, the Department has already received some letters in opposition and in support of them. Examples of such letters and the Department's responses are attached hereto as Attachment 5. They include a September 23, 1985 letter to Secretary Hodel from the Defenders of Wildlife, Sierra Club, and The Wilderness Society, and a November 7, 1985 reply from the

Deputy Director, FWS; a December 11, 1985 letter to the Regional Director from the National Audubon Society, and a January 31, 1986 reply from the Deputy Regional Director; an August 15, 1986 letter to Secretary Hodel from Senator Dale Bumpers and ten other Senators, and a November 6, 1986 reply from Secretary Hodel transmitting an October 15, 1986 response from me; and a September 5, 1986 letter to me from Congressman Don Young, and my reply of October 7, 1986. It is noteworthy that the Deputy Regional Director informed the National Audubon Society, one of the plaintiffs, that he agreed that public review and comment should be an important element in the consideration of the proposed land exchange and that he was planning to seek public review and comment before any agreement is finalized. See page eleven of Attachment 5.

17. While the exchange negotiations are ongoing, I have given no instructions to alter in any way the management of the coastal plain on account of the negotiations. No management changes, other than those that might be expected due to normal refuge operations, have been effected in the coastal plain during the exchange negotiations. Moreover, the draft exchange agreements essentially provide that the parties will not substantially alter the physical condition or otherwise materially change the management of the lands proposed to be traded before the contemplated conveyances occur. As explained earlier, these conveyances are contingent upon future legislation, as well as other contingencies. Therefore, the mere negotiation of these exchange proposals, and even the signing

of the exchange agreements themselves, cannot and will not change the management of ANWR, and thus they cannot and will not have any adverse, physical effect on the coastal plain.

18. Plaintiffs criticize the Department for pursuing exchange negotiations while simultaneously excluding the 1002 area from the comprehensive planning process being undertaken for the ANWR pursuant to section 304(g) of ANILCA, 94 Stat. 2394. The proposed exchanges are premised on the principle that Congress, not the Secretary of the Interior, will decide what are the appropriate future uses for the coastal plain. For this reason, and because the exchange negotiations themselves will not alter the management of the coastal plain, it is appropriate to forgo comprehensive planning for the coastal plain until Congress acts on the 1002(h) report and the contemplated exchanges. Moreover, nothing in section 304(g) of ANILCA expressly precludes undertaking administrative actions which are preparatory to entering into exchanges under ANCSA or ANILCA until refuge planning is completed. Finally, it has been one of the negotiating principles of these negotiations that any oil and gas activities that may eventually be authorized on the divested ANWR tracts should be conducted in a manner which is consistent with similar activities on the remaining federal tracts, of which I expect there to be a considerable number because of the relative values involved and the other constraints being built into the tract identification procedures.

17. Collectively, the lands being offered by the native corporations represent some of the highest priority acquisition needs with the National Wildlife Refuge System (NWRS). They contain world class habitats for migratory birds, anadromous fish, and brown bears, coupled with unsurpassed recreational opportunities. For example, 14.2 percent of the population of Pacific Flyway brant, 23.4 percent of the world population of cackling Canada geese, 20 percent of the world population of emperor geese, and 5 percent of the Pacific Flyway population of greater white-fronted geese nest on the lands being offered by the Native Lands Group. Lands being offered by Koniag, Akhiok-Kaguyak, and Old Harbor would enable the FWS to return to refuge status the majority of the lands critical to the Kodiak brown bear.

Accordingly, I view the potential acquisition of the approximately one million acres being offered as a unparalleled opportunity to enhance the NWRS, which makes the exchange proposals worthy of active consideration by the Department. If the plaintiffs are successful in their efforts to enjoin the ANWR negotiations until after Congress acts on the 1002(h) report, they may cause the Department to loose the "window of opportunity" reflected in the native corporations' offers and thus waste the resources already expended in developing the exchange proposals. They will also limit our flexibility in forwarding to Congress information that it may wish to consider during its deliberations on the 1002(h) report. Indeed, if, because of a busy legislative

calendar, Congress prefers to consider all ANWR-related legislative proposals at one time, this postponement might cause the Department to lose this opportunity to enhance the NWRS.

If the plaintiffs are successful in their efforts to enjoin the ANWR negotiations, including ANWR tract identification, until after the Department has prepared an EIS or LEIS, they will hamper our ability to adequately describe and evaluate the exchange proposals and their possible consequences for the reasons previously stated. Moreover, the delay that would occur in the native corporations' learning which specific ANWR tracts they might obtain, if the proposed exchanges were carried out, might cause the native corporations with the most pressing financial needs to begin looking at other economic alternatives, e.g., developing their lands for residential purposes. Such development would threaten the refuge resources and values that the proposed exchanges are intended to benefit and would most likely make the eventual acquisition of these refuge inholdings more difficult and costly. My greatest concern in this context is for the lands in the Koniag region. Congressman Young expressed the same concern in his September 5, 1986 letter to me, which is attached hereto as pages 17 and 18 of Attachment 5.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 20, 1987.

William P. Horn

Attachments

COTTEN → HORN
FEB 87

REPRESENTATIVE
SAM COTTEN
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ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

February 26, 1987

The Honorable William Horn
Assistant Secretary for
  Fish, Wildlife and Parks
U.S. Interior Department
Washington, D. C. 20240

Dear Secretary Horn:

I am writing on behalf of the House Resources Committee of the Alaska Legislature to present a set of questions about the possible Arctic National Wildlife Refuge land exchanges. The Committee appreciated the appearance of Bob Gilmore at our meeting February 13th on ANWR land exchanges. However, several issues remained unresolved at the hearing either because time ran out or because Mr. Gilmore was not prepared to discuss them. The Committee's next meeting on this issue is expected to occur during the week of March 9th; it would be our hope to have your responses in hand before this meeting occurs.

Land Exchange Contracts

With regard to the exchange contracts, we understand that a negotiating session is occurring in Washington this week, and that the documents produced so far are not available for public distribution. We also are led to understand that the contracts will not be made available to the public until after they are completed and perhaps signed. I encourage you to allow the release of current draft documents related to the exchange proposals, as repeatedly requested by representatives of the State of Alaska.

From our review of the state's comments on the draft contracts, and from discussion at the committee meeting last week, there appear to be major unresolved issues that should be considered in the negotiations. These include:

(a) Overriding revenue retention for the State of Alaska. According to Mr. Gilmore the negotiations would have to be redirected, and draft agreements and appraisals would have to be adjusted, to protect the State's existing entitlement to oil and gas revenues from public lands in Alaska. Senator Murkowski has supported the concept of retained revenue for the State. The State should not be expected to agree to land exchanges that could remove the best geologic structures from public ownership unless the State is assured of revenue protection. Has the Interior Department revised the agreements and appraisals to include this provision; if not, why?

(b) We understand that Interior is proceeding with the exchange of ANWR lands claimed by the State of Alaska on grounds of navigability, and that some lands claimed by the State may be included among trade packages offered by Refuge inholders. What consideration is being provided for these claims in the contracts?

(c) The issue of ANCSA 7(i) subsurface revenue sharing has been raised with regard to trade lands already acquired by the Arctic Slope Regional Corporation in ANWR. Will the trade lands within the proposed ANWR coastal plain exchanges be subject to 7(i)? Will any provision be made in these contracts for subsurface revenue sharing? If not, how will disputes be resolved in the future?

(d) The agreement is reported to contain a provision allowing the original inholder to retain a subsistence easement. What are the reasons for including this provision? How does it affect the value of the inholdings? Does it protect other hunting and fishing interests?

(e) Mr. Gilmore was unable to describe a reported contractual provision allowing some corporations to rescind an exchange after exploring ANWR tracts for oil and gas. The inclusion of such a provision seems contradictory, if the purpose of the exchanges is to acquire and hold valuable Refuge inholdings in perpetuity. What is the reason for the rescission clause? How is it structured?

(f) Mr. Gilmore stated that the contract will waive ANILCA Title XI standards for access across ANWR lands. How will access rights and needs be protected, particularly on lands that lie in important transportation corridors?

Public Process

As one legislator stated at the House Resources Committee meeting, there appears to be a stampede underway to accomplish

the proposed land trades, even though basis documentation, planning, and public review are incomplete or unavailable. Proponents of the land exchanges, including representatives of ANCSA corporations and Interior, have said that there are political advantages to moving forward with the land trades now so that they can be put before Congress soon after the 1002(h) study is presented. What public process does Interior intend for the proposed agreements?

Appraisals

The appraisal process for affected lands is very unclear, but information provided to date indicates that the process allows for a large amount of discretion and guesswork in the establishment of both subsurface ANWR values and the value of surface acreage of other Refuge inholdings. Mr. Gilmore stated that the BLM's ANWR subsurface appraisal "needs to go through several levels of approval (at Interior) in Washington" before it will be available. He also said inholdings cannot be appraised by standard procedures alone because these do not allow for consideration of wildlife (i.e. public interest) values, and that "any value over and above (the standard appraised value) will be determined by negotiation between the Department and the Native corporations." Mr. Gilmore said that the Department expects to "know precisely" what the inholdings are worth based on highest and best use and future value, as opposed to present value for ANWR subsurface. Please describe the appraisal process for both surface acreage and subsurface oil and gas values, including the discretion that may be exercised within the Secretary's Office. Will the appraisal process and negotiations be documented? Is there a written appeal process for participants? What considerations and criteria will guide the Department in the negotiations to establish surface values?

Inclusion of National Park Inholdings

Mr. Gilmore stated that the exchanges have proceeded "a long way down the road," but that he doesn't think it is too late to include National Park lands in this exchange proposal. The State of Alaska has been approached by the Park Service numerous times since the passage of ANILCA toward the purpose of eliminating state-owned inholdings in Alaska parks, including Denali and Wrangells-St. Elias. Acquisition of some of these lands by the Interior Department would appear to be in the national interest. Can you explain why the Department's only interest at this time centers on acquisition of Refuge inholdings? Has the Department established a priority list for Refuge and Park inholdings throughout Alaska, ranking them as a single group? Has the Department

reviewed all inholdings in Alaska parks and refuges to be certain that this apparent opportunity to acquire state or private inholdings is best used? Are the planned acquisitions consistent with applicable Refuge management plans?

Tract Selection

Even though tract selection may occur in the next four to six weeks, it seems that the ANWR tracts have not yet been identified. Mr. Gilmore stated that virtually all of the coastal plain would be available for exchange. In the past, we have heard that anywhere from 25,000 to 250,000 acres may be exchanged and we are informed that Senator Stevens has pressed for agreement that no geologic structure will be traded in its entirety. Obviously, the location of the trade tracts will be very important; 250,000 acres would more than encompass the Prudhoe Bay Unit Participating Area, and spread across the coastal plain could segregate the most promising geologic structures. When will the public know which tracts may be traded? Why has the Department chosen to keep the tract identification and selection process secret? How will conflicts be resolved between parties which nominate and seek to obtain the same tract?

State of Alaska Participation

When asked whether he regarded the State of Alaska as a supporter or advocate of the exchanges, Mr. Gilmore stated that it is "my impression from the sincerity of the negotiations and the people involved in the negotiations...that the state is proceeding as an active, interested participant in the exchange." On the other hand, the State has indicated that it is not committed to the exchange process and does not at this time endorse the concept of trading ANWR subsurface to eliminate inholdings in other Refuges. Is Interior fully aware of the State's land trade statute (AS 38.50), which requires legislative approval of any exchange agreement before it can be finalized?

Prior Existing Rights

One committee member raised the question of the State of Alaska's prior existing rights to the ANWR subsurface. As you know, the State regards its entitlement to 90% of oil and gas revenues produced in Alaska refuges as part of the solemn compact between Alaska and the United States leading to Alaska Statehood. This revenue entitlement is very important to the people of the State. Mr. Gilmore stated that he believes that Congress will attempt to reduce this entitlement to 50% on the basis of the NPRA model, and that this would serve as the basis for any retention mechanism preserving the State's

entitlement. Is it the Interior Department's view that this existing right may be traded away without the State of Alaska's concurrence?

Again, we appreciate the willingness of Interior Department officials to respond to the Legislature's questions and concerns. We will contact you when the Committee schedules its next meeting on the proposed ANWR trades.

Sincerely,

Representative Sam Cotten
Co-Chairman, House Resources Committee

cc: Governor Steve Cowper
Senator Frank Murkowski
Senator Ted Stevens
Representative Don Young
Bob Gilmore, USFWS
Boyd Evison, USNPS

HORN → COTTEN
MAR 87

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

March 6, 1987

see p. 5 on overriding royalties

Honorable Sam Cotten
Co-Chairman, House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811-0101

Dear Mr. Cotten:

Thank you for your letter of February 26, 1987 on behalf of the House Resources Committee, Alaska State Legislature. Your letter raises a number of questions about the Arctic National Wildlife Refuge (ANWR) land exchanges now under consideration by the Department of the Interior, following the appearance of Fish and Wildlife Service Regional Director Robert Gilmore before your committee on February 13, 1987. We appreciate the opportunity to provide you with more information about these exchanges.

As you know, native corporations own millions of acres of land within national wildlife refuges and parks throughout Alaska. Some of these lands have unsurpassed fish and wildlife values which warrant their acquisition for inclusion in the national wildlife refuge and park systems. At the same time, many of the native corporations, which are organized under the business for profit laws of the State of Alaska, are under pressure from their shareholders to put their lands to economic use. Knowing of federal budgetary constraints and the study underway pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA), several native corporations have, during the past two years, offered their inholdings in exchange for oil and gas interests in ANWR. At the same time, the State of Alaska also expressed some interest in possibly participating in the ANWR land exchanges, and the State was invited to participate via personal communication with then Governor Bill Sheffield in 1985.

Because of this unique opportunity to acquire vast acreages of desirable lands from a relatively few landowners, I decided that these offers were worth pursuing. However, although we have the administrative authority to consummate such exchanges under section 1302(h) of ANILCA, these exchanges will not be implemented without congressional approval. We have also made the commitments that no ANWR exchange recommendation will be forwarded to the Secretary for his consideration until he has independently determined what management regime to recommend for the future administration of the ANWR's coastal plain as a part of his section 1002(h) report and that no ANWR exchange will be forwarded to Congress, if agreed to by the Secretary, for its approval before the Secretary's 1002(h) report is submitted to Congress. We have consistently informed the

native corporations with whom we are discussing the ANWR exchanges and other interested persons that this is how we intend to proceed.

We have had active exchange negotiations with the native corporations and the State during the past several months. These negotiations have been aimed at drafting a satisfactory model contract which could serve as the basis for a series of bilateral exchange agreements. Because of the number of potential land exchange participants, the variety of entities involved, and the innovative nature of the concepts being discussed, this has proved to be a lengthy, complex and difficult task. Although Governor Steve Cowper announced the State's withdrawal from the negotiations as a potential exchange participant on February 27, 1987 (an announcement that I find disappointing), the negotiations with the native corporations are continuing.

Your first question relates to the public availability of the draft documents currently being developed. Elsewhere you request further information on the public review process contemplated for the exchanges. We appreciate your interest and the interest of various members of the public in these documents and we fully intend to make them available for public review before the exchange agreements are signed. However, the release of the draft contracts for public review prior to reaching an agreement in principle with the parties on what interests are to be exchanged and how they are to be enjoyed would be premature and would undermine the good faith efforts now underway to draft mutually acceptable terms. It will not serve the public to go forward with a process for public involvement until the major ingredients of the ANWR exchanges have at least been scoped out. While good progress has been made in delineating the lands proposed for acquisition by the Department, the particular subsurface tracts within ANWR that will be proposed for disposal through the exchange process have yet to be identified.

Because the exchanges being contemplated involve the trading of very dissimilar types of interests, i.e., essentially surface interests for subsurface interests, the parties seek to use value as the basis for the exchanges. The approach being used to ascribe value to inholdings being offered for exchange is described by my February 20, 1987 memorandum, a copy of which is enclosed for your reference. In addition, the Fish and Wildlife Service will soon have completed fair market value appraisals on all inholdings being offered, as well as classifications of all of the parcels involved based on their public interest attributes. The Bureau of Land Management is determining values for subsurface tracts in ANWR using the same methodology that it would use for evaluating tract values for lease sales. The valuation of the surface inholdings is subject to negotiation because we can only acquire lands from native corporations on a willing-seller basis, but the valuation of ANWR subsurface tracts is not. Both of these valuation processes will be documented for our administrative record.

The native corporations have consistently informed us that they cannot evaluate whether they will really want to go forward with the exchanges until they learn which ANWR tracts they might be able to acquire. Thus, the identification of the ANWR tracts to be proposed for exchange is a preliminary task that needs to be done before the parties will be able to represent to the public whether they desire to proceed with the exchange process. Consequently, the earliest time that we anticipate releasing the draft exchange agreements is after the identification of the particular ANWR tracts that would be proposed for exchange. Then, if the native corporations represent to us that they wish to continue pursuing the exchanges, the Department will have concrete exchange proposals worthy of public review. At that point, we intend to provide for public review of the exchange agreements prior to their consideration and signature by the Secretary. During the interim, if you find that you have any further questions, we will be pleased to discuss any of the concepts now under consideration as part of the exchange process.

No firm date has yet been established for the identification of the ANWR tracts sought by the native corporations with whom we are now dealing. We are still in the midst of designing the procedures that will govern tract identification. In doing this, we are mindful of the need to design a simple process which safeguards the public's interest and is fair to the potential exchange participants. We are seriously considering making some tracts unavailable for identification. In addition, we recognize that more than one corporation might identify the same ANWR tract for acquisition and, therefore, we are looking at several alternative means of resolving such conflicts. We have informed each of the potential exchange participants that the conditions precedent to the commencement of ANWR tract identification are (1) an agreement in principle by the Department and the participant on the value, legal description and acreage of the lands that it proposes to convey to the Department through exchange, (2) an agreement in principle on the basic terms of the exchange agreement and operating stipulations designed to protect environmental values, and (3) agreement on the ground rules to be used in identifying and allocating ANWR tracts to the various potential exchange participants. All of these matters are still subject to active discussions with the native corporations.

Your letter also raises a number of questions about certain substantive elements of the model exchange agreement now being discussed. The proposed exchanges are contingent upon congressional approval, as well as enactment of legislation opening the coastal plain to further oil and gas activities. One of our objectives has been to assure coordination in the exercise of whatever rights might be granted by contract and those rights granted under whatever leasing or other oil and gas program might be authorized by Congress so as to afford a greater measure of resource protection for the coastal plain. Consequently, we are seeking a contractual waiver of the normal access rights granted under Title XI of ANILCA. In this way, we hope to exercise greater

control over access to areas within ANWR so as to avoid unnecessary adverse effects and minimize unnecessary duplication of facilities, while incorporating sufficient provisions into the contract to provide access reasonably necessary to the enjoyment of the rights proposed to be conveyed.

contradicted by Horn 4/87, 2/88 said DOI is not using rescission

Your letter suggests that you misunderstand the purpose of the rescission provisions being discussed with the native corporations. Rather than being contrary to our exchange objectives, they provide an incentive to those native corporations which are willing to exchange virtually all of their existing refuge inholdings in return for appropriate risk-sharing provisions. We have attempted to be responsive to those needs by drafting two separate rescission options which would enable a corporation which chooses to incorporate them (a) to rescind due to institutional frustration beyond its control and (b) to rescind for failure of consideration. These options are not open-ended, and they are not cost-free. They do not guarantee that an exchange participant will fully recover the value of its inholdings in the form of oil or gas revenues. Their invocation will be cut off by certain events.

Any party that wishes to avail itself of rescission due to frustration will have to agree, as consideration for that option, to the permanent retention by the United States of traded inholdings equal in value to whatever net revenues it has received in the interim as a result of its participation in the exchange. The required consideration for rescission for failure of consideration is the permanent retention by the United States of a substantial percentage of traded inholdings, which may increase further based on net revenues, plus an overriding royalty in favor of the United States. These two forms of consideration may be regarded as insurance premiums for the Department's willingness to share the risks with those corporations that do not wish to risk loosing essentially all of their land assets through the ANWR exchange process.

Where consistent with statutory refuge purposes, we do propose to enable the exchange participants to reserve a "subsistence easement" for the benefit of local residents in the lands being conveyed to the United States. While the terms of this easement are still being worked out, an attempt is being made to assure continued access to the lands being conveyed to the United States so as to enable the enjoyment of a non-exclusive, preferential right to engage in hunting, fishing and other gathering activities. Inholding values will be discounted for those parcels where such interests are retained. We are willing to entertain this approach for several reasons. First, it is not unlike what we have done with acquisitions from hunting clubs elsewhere in the United States. Second, our acquisition of these inholdings, even though subject to such an easement, will mean that other hunting and fishing interests will be enhanced by eliminating the prospect that these lands could be closed by the corporations to public access. Third, the exercise of such reserved interests will remain subject to State hunting and fishing laws and regulations.

The inholdings currently under active consideration for acquisition by the Department would not trigger revenue sharing amongst the regional native corporations pursuant to section 7(i) of the Alaska Native Claims Settlement Act (ANCSA). Again, there are several reasons for this, including the fact that we are seeking to acquire surface interests with wildlife values. We are still studying the prospect of including a subsurface component in the ANWR exchanges, although we are concerned that doing so might work contrary to our exchange objectives (i.e., subsurface interests offer no wildlife values per se). In the context of the current exchange proposals, we are unaware of any significant subsurface resources that might be developed in the foreseeable future. If there are developable subsurface resources available, their exchange value, if high, may inhibit our exchange objectives by reducing the amount of ANWR interests that might otherwise be available for the acquisition of surface inholdings.

Finally, in addition to the above matters, your letter addresses several issues of special concern to the State of Alaska. These include revenue sharing, the State's claim to the title of certain submerged lands within ANWR and elsewhere, and the exchange of State-owned park inholdings. In several places, you suggest that the State has a vested interest in receiving 90% of the proceeds from the mineral development of Federal lands in Alaska. The only existing mineral revenue-sharing commitment made to the State is that found in section 28 of the Alaska Statehood Act. That originally gave the State 90% of the proceeds earned under the Mineral Lands Leasing Act or the Alaska Coal Lands Leasing Act. The latter statute has been repealed. Proceeds derived from exchanges, disposals or leases under other authorities are not covered by section 28 of the Alaska Statehood Act. This is why Congress had the discretion to set the revenue-sharing formula at 50% in the legislation that authorized leasing of the National Petroleum Reserve-Alaska, Pub. L. No. 96-514 (Dec. 12, 1980). Congress possesses similar discretion if it chooses to enact new legislation opening ANWR to oil and gas activities.

Your letter further suggests that we should retain an overriding royalty for the benefit of the State in the exchanges with the native corporations, apparently to protect the State's revenue-sharing expectations. There has been no attempt to create a contractual provision allowing for any form of "overriding revenue retention" for the State. Notwithstanding comments provided at the February 13th hearing before your committee, the State has never formally requested consideration of such a retained revenue feature. In any event, the Department lacks the authority to confer a financial benefit, such as your letter suggests, administratively through contract without consideration from the State. Such a benefit would be tantamount to a grant to the State and therefore would require Federal legislation. Of course, we were hopeful that, had the State chosen to be an active exchange participant, an exchange of oil and gas interests within ANWR for State inholdings elsewhere in Alaska would not only have enabled us

disputed Katz by 3/24/87 to Collier

to meet our acquisition objectives, but also would have provided the State with an opportunity to generate unshared revenues by leasing the ANWR interests that it would acquire through exchange.

Your letter alludes to the possibility that submerged lands claimed by the State on the grounds of navigability might be involved in the ANWR exchanges, even if the State is not an exchange participant. The submerged lands beneath navigable inland waters within ANWR, if there are any, have been reserved since early 1943 and, thus, were retained in Federal ownership under the terms of the Submerged Lands Act, which was incorporated by reference in section 6(m) of the Alaska Statehood Act. All of the coastal plain was within the boundaries of the withdrawal made by Public Land Order 82 (January 22, 1943), which was not repealed until December 6, 1960, well after statehood, by Public Land Order 2215. The entirety of the coastal plain was withdrawn as part of ANWR on December 6, 1960 by Public Land Order 2214. Accordingly, at no time since January 22, 1943 has any part of the coastal plain been unreserved and, therefore, no submerged lands could have passed to the State at statehood. For this reason, we plan to proceed in our exchange negotiations without acknowledging the State's submerged lands claim or the existence of any inland navigable waters in the coastal plain. Both the Department's and the State's representatives in the exchange negotiations have, however, notified the native corporations of the State's claims. Moreover, if the native corporations are concerned about the State's claims, they have the means through the identification process of avoiding ANWR tracts claimed by the State.

Elsewhere in Alaska, the native corporation may in some instances purport to convey to the United States submerged lands which are ultimately claimed by the State. We are willing to give valuable consideration to the corporations for these lands because, even if it should turn out that they belong to the State, the corporations are willing to have their acreages charged against their ANCSA entitlements. Thus, the corporations are forgoing their opportunity to obtain additional upland acreages where they have existing selections in refuges and elsewhere should the State's claims be sustained. Originally, the State also objected to our willingness to attribute the value of these lands to the corporations because the State thought it would work to the State's competitive disadvantage during the ANWR tract identification process. However, as the Governor has withdrawn the State from the exchange process, this fear should no longer be a consideration in your evaluation of the ANWR exchanges.

Several of the parties to the ANWR exchange negotiations, including the State of Alaska, have expressed an interest in trading their park inholdings for interests within ANWR. The Department has informed each of those who have expressed such an interest that it does not wish to close the door to such park acquisitions, but that, inasmuch as the lands being proposed for disposal are coming from a refuge, refuge acquisition priorities ought to be accommodated first. Nonetheless, the Department has been, and

continues to be, interested in the acquisition of State-owned park inholdings. Indeed, we have made numerous, unsuccessful overtures to the State since 1982 to effect such exchanges (e.g., "McCarthy" exchange, Dunkle Mine exchange, Katmai/Kamishak exchange, etc.), and priority acquisition lists have been developed for both parks and refuges in Alaska. However, our administrative capacity to process several major exchanges simultaneously is also limited. Therefore, we have informed the State, as well as other landowners, that park acquisitions will receive affirmative consideration if any subsequent ANWR exchange efforts are undertaken. Unfortunately, the State's withdrawal from the current ANWR exchange negotiations appears to make the prospect of obtaining State-owned park inholdings through an ANWR exchange unlikely.

Of course, we are aware of the requirements in AS 38.50 for review by the Alaska State Legislature of exchanges involving State lands. Indeed, AS 38.50 was discussed by the State's representatives with our negotiating team during the ANWR exchange negotiations. Should the State participate in future exchanges, we fully expect that the Department of Natural Resources and the Governor's Office would satisfy the requirements of State law.

Thank you again for your letter. We have tried to answer your questions clearly so that you will have a better understanding of how we are proceeding. The concepts described here reflect our current thinking, but the ultimate positions to be taken by the Department regarding the ANWR exchanges have yet to be determined. Please do not hesitate to contact me if you have further questions.

Sincerely,

Assistant Secretary for Fish and Wildlife and Parks

Enclosure

cc: Governor Steve Cowper
Senator Frank Murkowski
Senator Ted Stevens
Representative Don Young
Senator Jack Coghill
Regional Director Robert Gilmore, FWS
Regional Director Boyd Evison, NPS
John Katz, Director for State/Federal Relations and Special Counsel to the Governor of Alaska
Walter Ebell, Esq.
Authur Lazarus, Esq.
Alan Mintz, Esq.
Mark Rindner, Esq.
William Timme, Esq.
James Wilkens, Esq.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240
February 20, 1987

Memorandum

To: Arctic National Wildlife Refuge Exchange Negotiating Team

From: Assistant Secretary for Fish and Wildlife and Parks

Subject: Factors to Be Considered in the Valuing Non-federal Lands to Be Acquired by Exchange

This memorandum is to inform you of factors I will consider in the valuation of lands that are being offered in exchange for oil and gas interests in the coastal plain of the Arctic National Wildlife Refuge (ANWR).

The subject lands are owned by numerous Alaska Native Corporations and the State of Alaska and are located within the boundaries of 12 Alaska national wildlife refuges. The subject lands comprise approximately 2 million acres in aggregate.

In order to allow the preparation of proposed exchange contracts that will be subject to Secretarial approval (after the Secretary has made an independent decision on the ANILCA section 1002(h) report) and to Congressional approval, it is necessary to reach agreement in principle over values of the subject lands. These values will then be used as the basis for identifying tracts in the ANWR that the State and Native Corporations want to acquire through the exchange. The valuation of State and Native inholdings is a difficult task. The Fish and Wildlife Service (FWS) has undertaken fair market appraisals of these lands. These standard appraisals attempt to test the value of the lands for private investment purposes. The lands in question have not previously been on the market for sale and there are few comparable sales. Moreover, the lands impart public benefits typically not reflected in market transactions.

A further problem in valuation is that the owners of the Native Corporations place a value on their lands that far exceeds their investment value. Sale of these lands would not only remove a source of financial wealth, but would permanently separate Native people from control over the fate of lands of deep cultural meaning.

The FWS, with its Congressional mandate as manager of the National Wildlife Refuge System, also places an intangible value on the subject lands for uses other than development. This value may, indeed, be quite significant as most of these lands contain unique, high value wildlife resources. Consequently, acquisition of the subject lands clearly will enhance the ability of the FWS to meet the Congressionally mandated purposes for the Alaska refuges. The lands being offered from within the boundaries of existing national wildlife refuges

in Alaska are an important portion of the outstanding inholdings that exist today primarily as a result of the Alaska Native Claims Settlement Act (ANSCA) and the Alaska National Interest Lands Conservation Act (ANILCA). In the Kodiak Refuge, for example, the lands to be acquired are essential to the life cycle of the Kodiak brown bear that the refuge was established to protect. Migratory bird habitats being offered as a part of the exchange are key to sustaining populations of worldwide significance, including those species showing dramatic populations declines. These lands and resources associated with them are critical to achieve the objectives set forth by Congress for these Conservation System Units.

Another consideration is that this opportunity is unique in that never before have so many lands containing such wide-ranging, diversified resources been simultaneously offered for acquisition by the United States for conservation purposes. The opportunity to acquire these lands may not occur again. Moreover, the ability to acquire such enormous acreage scattered across Alaska in essentially one transaction provides significant administrative savings to the FWS.

The value I am seeking to determine is essentially the negotiated price at which both the Native Corporations and the State as sellers, and the U.S. Government, as buyer, would be able to agree to the exchange being proposed. Unlike most acquisition situations in which the Department is involved, negotiated, mutually agreed upon values are imperative here since the Department lacks authority to condemn the subject lands. The Department cannot look to the courts to settle the question of the lands' exchange value.

In the past, the value of some Alaska Native Corporation lands has been determined by Congress. These valuations can be used as precedents for valuation of the subject lands, and it is appropriate to accord considerable weight to the prior judgments of the legislative branch.

In prior discussions, I have outlined four primary factors which I am persuaded are important: (1) fair market values, (2) environmental/public interest values, (3) transactional values, and (4) Congressional "comparables" or precedents. The specific factors which relate to these are:

A. their fair market value appraisals;

B. their unique environmental qualities and productivity;

C. their recreational value;

D. the economic value of associated resources;

E. the threat of inconsistent land uses;

F. the effect of any easements and other interests retained;

G. the effect of section 22(g) and 14(c) restrictions as applicable,

H. the statutory prohibition against condemning the lands;

I. the unique opportunity to acquire the lands from a few landowners, including the cumulative size of the proposals being offered;

J. the management efficiencies to be gained; and

K. the established Congressional precedents.

Congress has recognized the unique problems associated with land exchanges in Alaska. In the other 49 states, land exchanges are normally negotiated on the basis of equal value as determined by standard appraisal practices focusing solely on tangible economic factors. In Alaska, Congress has twice authorized exchanges to occur on the basis of "public interest" values: section 22(f) as amended of ANSCA in 1976, and section 1302(h) of ANILCA in 1980. Using nontraditional valuation procedures for the negotiations now being undertaken is clearly consistent with the will of Congress.

Some evidence of public interest values which Congress considered appropriate is found in earlier legislation authorizing or requiring the purchase of native lands in Alaska. These legislative precedents are scattered across the State; each block of land is different from the other and many are different from the lands now being offered. Therefore, these values should not be deemed as controlling but simply as providing guidance.

On January 2, 1976, Public Law 94-204 became law. Section 12 of that act approved a three-way settlement among Cook Inlet Region, Inc. (CIRI), the State of Alaska and the United States. The underlying purpose of the settlement with CIRI was to clear the CIRI and village claims from around Lake Clark in order to expand the Congressional options in creating Lake Clark National Park (a goal very similar to our present effort to explore means of reducing National Wildlife Refuge System inholdings). This is an extremely complicated settlement. However one part of the settlement does provide affirmative guidance. After naming numerous specific tracts that would go to CIRI, they were guaranteed receipt of 138,240 acres of land with economic opportunities or its equivalent in higher value lands that would be based on acre-equivalents of $500 per acre. The original settlement also provided that a substantial portion of the lands to go to CIRI were to come from remote interior areas well away from any cities or villages. Even these remote areas proved difficult to transfer, so Congress authorized the liquidation of those areas at a value of $250 an acre to be used in purchasing property in the lower 48 states.

In Section 1417 of ANILCA, Congress mandated the acquisition of a minimum of 8000 acres of important sea bird habitat on islands owned by the village corporations representing the communities on St. Paul and St. George Islands, Alaska for $5.2 million. Under the subsequent negotiations between the United States and the two village corporations, the surface estate in 8,247 acres was acquired at an average cost of $630 per acre. Congress appropriated the money for this acquisition.

A third example was the proposed legislation to purchase all of the inholdings in the Kodiak Refuge from Koniag and its villages. That legislation proposed to exchange bidding rights on Outer Continental Shelf leases for refuge lands. HR 6471 passed the House of Representatives on September 30, 1982, but the 97th Congress expired before the Senate took action. The House passed the measure after being advised in the supporting committee report that the lands might be valued at $600 per acre.

From the above examples we have seen Congressionally approved values that range from $250 per acre to $630 per acre. Numerous other substantial land transactions have been approved by Congress involving thousands of acres of Native, State and Federal land without the benefit of land appraisals or specific valuations (i.e., Title XIV of ANILCA).

In summary [redacted] this [redacted] through negotiations [redacted] intent to [redacted] on the public interest attributes ascribed to the properties and the Congressional precedents described above. The negotiations are safeguarded by our requirement for Congressional review and approval of these exchanges, thus assuring the broadest possible public scrutiny concerning the ultimate value of the resources to be acquired.

11 of 11

KAT2 → COTTEN 3/87
overriding royalties

STEVE COWPER
GOVERNOR

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

March 24, 1987

The Honorable Sam Cotten
Co-Chairman, House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811-0101

Dear Sam:

In correspondence to you dated March 6, 1987, Assistant Secretary of the Interior Bill Horn stated with respect to the possibility of the State's receiving an overriding royalty or other retained interest in oil and gas rights transferred to Native Corporations in the Coastal plain of the Artic National Wildlife Refuge (ANWR) that: "Notwithstanding comments provided at the February 13th hearing before your committee, the State has never formally requested consideration of such a retained revenue feature."

Perhaps I do not know what Bill meant by the word "formally." If he meant that the State did not chisel its request for an overriding royalty into the cornerstone of the U.S. Department of the Interior, then he is correct. If he means virtually anything else, Bill is wrong.

In fact, in almost every meeting and telephone conversation with Assistant Secretary Horn over a several month period, we requested the inclusion in any ANWR land trades of an overriding royalty which would help compensate the State for the potential loss of its 90-10 revenue share under the Mineral Leasing Act of 1920. Since Bill is the principal policy person (other than the Secretary) at Interior with responsibility for ANWR, and since his staff indicated that the question of an overriding royalty is a major policy issue within Bill's purview and not theirs, we concentrated our advocacy efforts at his level on numerous occasions. It is my understanding that members of the Alaska Congressional delegation have also discussed the overriding royalty issue with the Assistant Secretary.

On each occasion when we raised the matter of an overriding royalty, Bill's response was in the negative. He said that to grant the State such a royalty would increase the amount of oil and gas interests in ANWR which must be conveyed out

of Federal ownership in order to compensate Native corporations for the corresponding reduction of the value of their Coastal Plain's ownership. He was unwilling to countenance this expansion of private ownership interest, particularly since he feels that the State has no vested rights under the Mineral Leasing Act. Further, with respect to any situation in which the State is not actually a participant in the land exchanges, he said that the Interior Department lacks the legal authority to grant an overriding royalty, because the State would not be in a position to provide sufficient consideration to the Federal government.

In summary, I believe that it is unequivocally clear that the State requested an overriding royalty on several occasions. For the policy and or legal reasons outlined in the Assistant Secretary's letter to you, he steadfastly refused these requests.

I hope that my letter clarifies the record. If you would like a further elaboration on this or other subjects pertaining to ANWR, please let me know.

Sincerely,

John

John W. Katz,
Director of State/Federal
Relations and Special Counsel
to the Governor

cc: Bill Horn

Statement by Robert Gilmore, Regional Director
U.S. Fish and Wildlife Service, before the
House Resources Committee of the Alaska Legislature
February 13, 1987

OPENING REMARKS

Mr. Chairman, my name is Robert Gilmore and I am the Regional Director for the U.S. Fish and Wildlife Service. I am pleased to appear before you today on behalf of the Department of the Interior to discuss efforts now underway concerning potential exchanges involving oil and gas interests on Arctic National Wildlife Refuge.

The Alaska Native Claims Settlement Act of 1971 and the Alaska National Interest Lands Conservation Act of 1980 allowed for Native selections of millions of acres of prime habitat within refuges in Alaska. Depending on the amount of lands ultimately conveyed, it is estimated that 13-15 million acres of inholdings will be established in Alaska's 16 refuges.

Should Congress decide to open the coastal plain of the Arctic Refuge to oil and gas development, several Native corporations and the State of Alaska have proposed to exchange some of their inholdings within existing Alaska refuges for oil and gas resources of comparable value on specifically described tracts on the 1002 area of the Arctic Refuge.

As a matter of policy, any Alaskan land exchanges in Arctic Refuge will only come about if Congress opens the area to oil and gas exploration and development. In addition, should any exchange agreements be successfully negotiated, they will be subject to Congressional review and approval.

During the past 18 months, Department of the Interior representatives have been meeting with Native corporations and State representatives to discuss the terms and conditions that might be associated with any potential exchanges. The Fish and Wildlife Service has identified, to the participants and others, approximately 5 million acres of refuge inholdings that represent high priority resource areas. The participants have cooperated with FWS to develop exchange proposals that are responsive to these priorities. While the final configuration of these proposals is still being negotiated, indications are that one to two million acres may be available for exchange in 12 of the 16 Alaska refuges. To date, there has been no identification of tracts on the Arctic Refuge for inclusion in such an exchange.

ACCEPTANCE OF EXCHANGE PROPOSALS

- Responsibility of Regional Director
- Dictated by priority system
- Directed at Refuge inholdings (no other agency involvement)
- No subsurface
- No 14(h)(1) sites (generally)

PARTICIPATION

Participants	Approximate Size of Proposal	Refuges Involved
Koniag	107,000 acres	Kodiak
Akhiok-Kaguyak	117,000 acres	Kodiak
Old Harbor	50,000 acres	Kodiak
Doyon	600,000 acres	Arctic, Innoko Nowitna, Kanuti
Native Lands Group	390,000 acres	Yukon Delta, Kenai
State of Alaska	792,000 acres	Togiak, Koyukuk, Innoko, Yukon Delta, Maritime, Tetlin Alaska Peninsula
Approximate Total	2,056,000 acres	

BENEFITS

- Assures that high priority resource areas are held in public trust in perpetuity
- Eliminates prospect that Native lands might be converted to other uses
- Protects continued subsistence uses by local rural residences
- Allows for early exploratory activity on the coastal plain
- Generates direct and indirect revenues to the State and Native corporations
- Makes opening of the coastal plain more palatable to some

EXCHANGE AGREEMENT

- consistent with 1002(h) report
- based on comparable value
- involves only oil and gas interest for specified period
- gravel owned by U.S.
- Title XI access rights will be waived
- consistent with ultimate leasing program
- subsistence easement on inholdings
- rescission/termination clauses - participants are not guaranteed total value will be received
- DOI approves plans of operations
- DOI get "down-hole" information

US SENATORS - HODEL
AUGUST 86

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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510

August 15, 1986

The Honorable Donald P. Hodel
The Secretary of the Department
of Interior
Washington, D.C. 20240

Dear Mr. Secretary:

We are deeply concerned about an effort underway at the Department of the Interior to exchange native inholdings in wildlife refuges in Alaska for subsurface rights in the coastal plain of the Arctic National Wildlife Refuge, presumably so this area can be developed for oil and gas. Pursuant to Section 1002 of the Alaska National Interest Lands Conservation Act, Congress deferred the decision to develop or preserve this sensitive area until an assessment could be made of the oil and gas potential and the effects development of these resources would have on fish and wildlife, native culture and subsistence, and wilderness values. Ongoing negotiations with Native regional corporations on a land exchange may jeopardize the objectivity of the report to Congress. Moreover, the proposed exchange will complicate and possibly prejudice a decision by this body regarding the fate of these lands.

Furthermore, we are dismayed to learn that the U.S. Fish and Wildlife Service has sent 8 real estate appraisers to Alaska at a cost of nearly $300,000, yet has failed to formally notify the appropriate committees of Congress of the intended land exchange. This is contrary to the intent of the Conference Committee Report for the Fiscal Year 1986 Interior Appropriations Bill (P.L. 98-473), which requires that the "appropriate committees of jurisdiction be consulted before exchanges in [national wildlife refuges and national park units in Alaska] are proposed."

We therefore urge you to suspend efforts to negotiate an exchange of native inholdings in wildlife refuges in Alaska for native-owned subsurface rights in the coastal plain of the Arctic National Wildlife Refuge until Congress has decided future management of this area.

Respectfully,

Dale L. Bumpers

Carl Levin

Bill Bradley

Howard M. Metzenbaum

Patrick J. Leahy

Paul Simon

William Proxmire

Gary W. Hart

John D. Rockefeller, IV

Albert Gore, Jr.

Daniel Patrick Moynihan

Honorable Dale L. Bumpers
United States Senate
Washington, D.C. 20510

NOV 6 1986

Dear Senator Bumpers:

Thank you for your letter of August 15, 1986, urging the Department of the Interior to suspend its efforts to negotiate an exchange of native-owned inholdings in national wildlife refuges in Alaska for subsurface rights in the coastal plain of the Arctic National Wildlife Refuge. I regret the delay in providing a response to your concerns.

Since I have had no personal involvement in this matter, I have referred your letter to the responsible official, Assistant Secretary for Fish and Wildlife and Parks William P. Horn. Mr. Horn's explanation of the Department's position regarding this exchange is enclosed for your information.

I share and appreciate your desire to ensure that the future use of the coastal plain's resources be premised upon a sound and objective basis. I am confident that the current departmental efforts at exploring an exchange that will be subject to Congressional approval will not jeopardize our mutual goal.

Sincerely,

DONALD PAUL HODEL

Enclosure

cc: Regional Director, Region 7
Refuge Manager, Artic NWR
Secretary's Reading File (2) 6013 MI
Directorate Reading File 3252 MI
DO Chron 3252 MI
RF/CCF 2343 MI
LS 3040 MI
CCO 3012 MI
CL 6242 MI
FW 3147 MI
ES (8) 6221 MI
SOL 7129 MI
LM 6628 MI
IA 4640 MI
PBA 5119 MI

2343:DCiccone:scb:10/15/86:343-2590:Control Number 24865 DC-8-3

Identical Letters Sent To:
Bill Bradley, Patrick J. Leahy, William Proxmire, John D. Rockefeller, IV Daniel Patrick Moynihan, Carl Levin, Howard M. Metzenbaum, Paul Simon, Gary W. Hart and Albert Gore, Jr.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

October 15, 1986

Memorandum

To: Secretary

From: Assistant Secretary for Fish and Wildlife and P

Subject: Arctic National Wildlife Refuge Land Exchange

This memorandum is in response to your referral of the August 15, 1986, letter from Senator Dale L. Bumpers and 10 other Senators concerning the Arctic National Wildlife Refuge (ANWR). You have asked me to review their concerns about the potential exchange of subsurface interests in the coastal plain of the ANWR for native-owned inholdings on other refuges.

I can assure you that the Department's consideration of a possible ANWR exchange concurrent with preparation of the report to Congress required by section 1002(h) of the Alaska National Interest Lands Conservation Act (ANILCA) will not compromise the objectivity of the 1002(h) report or prejudice Congressional action on any of the report's findings and recommendations.

In passing section 1002(h) of ANILCA, Congress carefully prescribed the preparation of a balanced and thorough report which evaluates the surface and subsurface resources of the coastal plain and the impacts of any further exploration for, and development and production of, oil and gas in that area. An interdisciplinary team of over 50 experts within the Department has been working diligently over the past 5 years to produce a highly informative and credible report. It has always been our goal to submit a report containing all the information that Congress has requested to determine how the coastal plain should best be managed in the future. I have no doubt that our report will accomplish this goal.

The exchange to which the Senators' letter refers could present the means of acquiring vast amounts of important fish and wildlife habitat from a small group of landowners. Native corporation inholdings within wildlife refuges and parks total millions of acres including lands with unsurpassed fish and wildlife values. We are statutorily restricted to acquiring these holdings on a willing seller basis only. Therefore, when we were approached by a number of these corporations willing to offer their inholdings in an exchange involving ANWR, I decided it was worth pursuing negotiations. We have, however, consistently notified the native corporations that no exchange proposal (if agreed upon) could go to Congress until after the Secretary made an independent decision on the section 1002(h) report and that any proposed exchange will require Congressional approval notwithstanding our administrative authority to consummate such exchange pursuant to section 1302(h) of ANILCA. Thus, because we recognize the

significance that such an exchange would have, we agree that Congress should have the deciding voice in determining whether the exchange will go forward. In this manner, adequate Congressional review and oversight is assured.

I hope this memorandum provides sufficient information with which to answer the Senators' letter. I will of course be glad to answer any additional questions that they may have.

NULATO, KOYUKUK
GALENA KALTAG

GANA-A' YOO LTD.

BOX 38 • GALENA, ALASKA 99741 • PHONE (907) 656-1606

December 22, 1987

The Honorable Sam Cotten
Alaska State Representative
P.O. Box 296
Eagle River, AK 99577

Re: ANWR Native Land Exchanges

Dear Representative Cotten:

The purpose of this leter is to respond to a letter you have recently written to Senator Jan Faiks relating to the Native land exchange in the Arctic National Wildlife Refuge (ANWR). Your letter to Senator Faiks contains the following statement: ". . . the proposed land trades could do enormous violence to the general interest of the people of the State of Alaska". We believe that statement is incorrect. The purpose of this letter is to state the reasons we believe that statement is incorrect, and to urge the opening of a dialogue with the Native trade participants.

In seeking to respond to your statements, it is necessary first to focus upon the basis for your concerns. We do not understand your concern to be one relating to federal game management policy. Of course, you are aware that significant percentages of important water fowl species and other game, including Kodiak Island brown bears, live on huge private property inholdings in the National Wildlife Refuges in Alaska. You are also aware that significant public recreation presently takes place i trespass on private property inholdings in game refuges, such as the Russian River fishing area. Both of these circumstances would be corrected by the land exchanges. However, we do not understand that you are concerned with these problems.

Nor do we understand you to be concerned with the human benefit of the exchanges. As you are certainly aware, the standard of living in many Bush villages in Alaska is very low. Nowhere else in America do people live in such isolation and poverty, and under such harsh conditions. As you know, there is no real hope of escape from such conditions. As a result, alcoholism and drug abuse have become widespread, and suicide is the highest cause of death among young males in many of these Bush villages. The exchanges present the first possibility of real change for the village participants. The corporations will be able to offer

employment and educational opportunities as well as regular dividend distributions. The villages finally will have the opportunity to improve the harsh environment in which their shareholders live. However, we do not understand you to be concerned with the human benefits of the exchanges either.

Nor do we understand your concern to be one of State economic development. You probably know that the exchanges represent the first time any Alaskan corporation will have a stake in North Slope oil development, and that 100% of the economic benefits that flow to the Alaska Native corporations will stay in the State, because these benefits will be paid to Alaskan shareholders and spent in what are now economically fallow areas of the State. This will directly encourage substantial in-state economic development. You probably also know that the State government would otherwise only get a 50 percent share of funds from ANWR, and that 50 percent of that, in turn, would be invested by the Permanent Fund outside the State, returning only the earnings to Alaskan citizens. In other words, 100 percent of the income generated by the trades stay in Alaska, while only 25 percent of same ANWR revenues (plus the earnings on another 25 percent) would stay in the State without the trades. But we do not understand you to be concerned with economic development in Alaska.

What we do understand your concern to be is purely one of State government revenues - - the mistaken perception that a significant amount of State revenue will be lost as a result of the land exchanges. However, such concerns are misplaced.

First, it is important to analyze the source of the State's revenues from oil and gas operations. About 60 percent of the State's oil and gas revenues are generated by taxes which would apply to ANWR trade lands just as they do elsewhere. Such taxes include severance taxes, oil and gas property taxes, corporate income taxes, etc. That 60 percent of State oil and gas revenues is completely unaffected by the land trades.

Second, the remaining 40 percent of State oil and gas revenues is derived from bonuses and royalties. But only a tiny portion, if any, of State revenues from those sources is affected by the exchanges. In analyzing the impact of the trades on the State's royalty revenues, it is important to understand four things: First, Congress will probably not open ANWR without diminishing the State's share to 50 percent, from its present 90 percent, of the 12.5% federal royalty. That means the State's share of federal ANWR royalties is cut by nearly half. Second, only about 14 percent, or one-seventh, of the ANWR Coastal Plain lands identified as "on-structure" by the BLM have been affected by the exchanges. The State's right to share in royalties and bonuses from the other six-sevenths of "on-structure" lands is unaffected. Third, the royalty income the Native corporations get from ANWR will be subject to taxation by the State. Fourth, this

Native royalty interest is in some cases significantly higher than the 12.5 percent federal royalty rate.

In summary, the total fiscal impact of the exchanges on State revenues represents the difference between 50 percent of a 12.5 percent federal royalty, and the amount the State receives from taxing the Native trade participant on 100% of their (possibly higher) retained royalty shares. The State may actually get more by directly taxing a higher Native royalty than it would get from sharing 50 percent of 12.5 percent. This minimal effect occurs only with respect to one-seventh of the "on-structure" ANWR lands. The State's revenues from the remaining six-sevenths of the lands is unaffected.

The easiest way to illustrate the relative difference is to consider that, of the 40 percent of its revenues the State would derive from royalties and bonuses if it owned all the Coastal Plain lands, the State's 50-50 share means it would get only 20 percent. Added to the sixty percent derived from taxes, the State gets 80%, instead of 100% of the revenues. The Native land exchanges affect only one-seventh of the on-structure lands: assuming the Native lands also have one-seventh of the oil, then the trades impact one-seventh of 20% of State revenues, or a decrease of about 3 percent, to 77% from 80%. In turn this 3 percent impact on the State's interests is subject to taxation, which may eradicate the difference.

That is a tiny difference, at best. When analyzed completely, the impact of the land exchanges on State revenues goes from one of "enormous violence" to one of insignificant or nonexistent impact.

Even assuming there is a minor economic impact remaining after taxation, it could be totally vitiated if the State returned to the land exchange table itself. If it did so, it would collect 100 percent, and not 50 percent, of the royalties and bonuses on the lands it thereby obtained, while still preserving its revenues from taxation of the Native royalty interests and bonuses.

We believe a significant amount of misinformation has been circulated concerning the lands which remain after the land exchanges, to the effect that all or substantially all the "good" lands are now gone. Nothing could be further from the truth. First, an entire, massive, and highly prospective structure totalling about 140,000 acres located on the upper Jago River was not touched by the trade at all. Second, only 15 percent of the massive Niguanak structure lying in the east of the coastal plan was affected by the land exchange. This is because the tract values were simply too high for the Native land trade participants and thus they were forced instead to take acreage positions on small plays spotted around the Coastal Plain. It should be noted

that, were the State to return to the bargaining table, many valuable and highly prospective tracts thus remain available for the State to obtain. It should also be recalled that the State has about double the trade values of all of the Native trade participants put together and could easily afford these high quality tracts.

A significant amount of misinformation about the impact of the land exchanges has been spread by a State bureaucracy that, 6 months ago, claimed it did not possess enough reliable geological and geophysical information to engage in land exchanges, and which now considers itself able to speak with conviction concerning the presence of oil in structures it previously claimed to be ignorant of. The reliability of the present statements can be gauged by noting that the present statements completely contradict those made 6 months ago, and by the fact that no new seismic work or geological work has been done in the meantime.

Representative Cotten, we are concerned that the 23,000 shareholders of the trade participants not be caught in a partisan political crossfire in the State Legislature, or trapped by a general dislike of Native corporations which is based in ideology and not in fact. The land exchanges have much to recommend them, in terms of significant game management benefits, human benefits, and benefits of economic development which accrue to the State's economy as a whole. In turn the costs to the State government are insignificant or nonexistent and can be avoided altogether if the State returns to the trade table.

We are concerned that a clear and fair picture of the trades has been obscurred by the bias of some of the old elements in Alaska who oppose any benefits for Alaska's Bush communities, and who believe that the only appropriate place for revenues is in the State coffers, instead of in the hands of the private economy. We are also concerned that the misinformation sown by these elements may have misled some in our Legislature. We would like a chance to meet with you to share further information on the exchanges that may not have been previously available to your staff.

Sincerely,

GANA-A' YOO, LIMITED

Max J. Huhndorf

Max J. Huhndorf
President

MH:st

cc: Governor Cowper
Senator Jan Faiks
All Legislators
All Senators

REPRESENTATIVE
SAM COTTEN
DISTRICT 15

P.O. BOX 296, EAGLE RIVER, AK 99577
P.O. BOX V, JUNEAU, AK 99811

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

January 14, 1988

Max Huhndorf, President
Gana-a' Yoo Ltd.
Box 38
Galena, AK 99741

Dear Mr. Huhndorf:

Thank you for writing me about the proposed land exchanges in the Arctic National Wildlife Refuge. I must take issue with your statements alluding to prejudice against Alaska native corporations. It is simply untrue that my opposition to the trades is based on "a general dislike of Native corporations, which is based in ideology and not in fact." In fact I'm not even sure what this statement means. I hope you are not suggesting a racial motivation; if so, nothing could be further from the truth.

I welcome your invitation to open a dialogue with native land trade participants. This fall at the Anchorage Public Policy Forum meeting mentioned in my memorandum to Senator Faiks, forum organizers were unable to locate trade supporters interested in such dialogue. At last year's House Resources Committee meetings on the land trades, a representative of one involved ANCSA corporation insisted on secrecy in the trade process. Obviously, it has not been easy to conduct a dialogue on this issue.

I would like to address a number of your points. Repeatedly you have attempted to ascribe to me views or positions that I simply do not hold. For instance, by questioning the land trades as structured, I do not oppose recreation and public use of affected trade parcels but I believe that the public interest could well be served by acquisition of these parcels in some other way.

I also recognize that the habitat value of the trade acreage is high and worth protecting in many cases. I believe that the federal government should dedicate some portion of the revenue stream from ANWR leasing to acquiring refuge inholdings at their market value.

I do not question your statements regarding the social needs of Alaska villagers; in fact I have long been a strong supporter of adequate social funding to address alcohol and drug abuse, health problems, and community development throughout the state. But I must take issue with land trade supporters who believe that the trades constitute the means to address these problems. The trades are speculative at best. If the acquired acreage does not produce oil and gas, the trades could result in the elimination of Native landholdings (and revenue base) resulting in even greater demand for state-supported public services.

I noted, with interest, a story in today's Anchorage Daily News, entitled "Nulato's Bid to Just Say No". It appears that your corporation, over the strong objection of local villagers, is leasing land for a liquor store near Nulato. Your chief executive is quoted as saying, "We didn't get into the right or wrong of the alcohol issue. Do it right or wrong, our intent was to lease it." Is this action consistent with your letter to me discussing the problem of alcoholism in the villages and the role of the village corporations in addressing it?

It is not clear to me that the trades will increase economic benefits and economic development in Alaska. They could concentrate a large amount of wealth among a few Native corporations rather than in the general public's control (e.g., the Permanent Fund, which directly benefits every Alaskan). And it is misleading to imply that ANCSA corporations focus their spending entirely instate. The acquisition of media-holding companies on the east coast by one ANCSA corporation, and the development of properties held out-of-state, may benefit some ANCSA shareholders but provide at best a tertiary benefit for the Alaska economy. Additionally, the diversion of Congress' attention from the central issue of opening the coastal plain may have already slowed down the economic development that will result from a decision to open the coastal plain.

Some other points deserve to be made. The trades were consummated behind closed doors, based on speculative appraisals rather than on a market test such as competitive bidding. This could deprive the federal treasury (not just the State of Alaska) of large amounts of revenue, amounting to a windfall for the ANCSA corporations and their oil industry partners.

I also do not accept your calculations regarding the effects of the trades on state tax revenues. State geologists indicate that the oil and gas potential of the affected ANWR acreage is much higher than would be indicated by the simple percentages you chose to present in your letter. Also, in defense of the state geologists whom your letter attacks, I must say that I have not heard them "speak with conviction concerning the presence of oil in structures (they) previously claimed to be ignorant of." On the other hand, I have heard them advocate a market test of the Interior Department's appraisals and question their geological basis.

I do support the opening of ANWR to responsible exploration, and hopefully the production of oil. I think all Alaskans would benefit from this activity and hope we can all work together in support. I feel that opposition from the ANCSA corporations unless they receive a benefit at the expense of the general Alaskan public would be counter to the best interests of Alaska.

In closing, please allow me to restate that I do not belong to any group showing "bias" or "oppos(ing) any benefits for Alaska's Bush communities." I am disappointed that this has been implied. I do respect the economic interests that you represent and look forward to a continuing dialogue with you.

Sincerely,

Sam Cotten
Representative

cc: Govenor Cowper
All Legislators

Native Lands Group

January 11, 1988

House of Representatives
State of Alaska
Pouch V
Juneau, AK 99811

Re: Alaska Wildlife Refuge Exchanges - The Native Perspective

Dear Representative:

As you are aware, the proposed Arctic National Wildlife Refuge (ANWR) land exchanges have become controversial. This has spawned a considerable amount of misinformation, misunderstanding and rhetoric. Because this issue will undoubtedly come before the Alaska Legislature in 1988, we believe it is important that you are aware of the Native perspective on the land exchanges.

Enclosed is a copy of our just completed booklet entitled "Alaska Wildlife Refuge Exchanges - The Native Perspective." This booklet succinctly outlines the major aspects of the proposed exchanges, describes the background against which the Native corporations entered exchange negotiations, and enumerates the varied and very important wildlife habitats encompassed by the Native refuge inholdings.

We sincerely hope that you will take a few moments to read the booklet, and we encourage you to contact the corporations involved for further information (see back cover).

Welcome to Juneau, and our best wishes for a productive session.

Sincerely,

Akhiok-Kaguyak, Inc.

Ralph Eluska
Chief Executive Officer

Doyon, Limited

Morris Thompson
President

P.O. Box 93330
Anchorage, Alaska 99509-3330
(907) 272-3522

Gana-A'Yoo, Limited

Max Hunndorf
President

Koniag, Inc.

Frank Pagano
President

ilative Lands Group, L.P.*

Margaret S. Brown
Project Director

Old Harbor Native Corporation

Linda Lester
Treasurer

pat51/062

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* A limited partnership including 13 Native corporations - Aleut Corporation; Asкinuk Corporation; Bethel Native Corporation; Chevak Company Corporation; Cook Inlet Region, Inc.; Kenai Native Association; NIMA Corporation; Nunakauiak Upik Corporation; Paimiut Corporation; Salamatof Native Association; Tununrmiut Rinit Corporation; and Tyonek Native Corporation.

NATIVE LANDS GROUP
P.O. Box 93330
Anchorage, Alaska 99509-3330

December 15, 1987

Representative Sam Cotten
P.O. Box 296
Eagle River, AK 99577

Re: ANWR Land Exchanges

Dear Representative Cotten:

As participants in the proposed ANWR land exchanges, we, as Alaska Native corporations, are very concerned about the position the State of Alaska is taking with respect to the exchanges. Through letters from the Governor and certain legislators you have received information opposing the exchanges. As with any issue, there are two sides to the story, and we wish to provide you with the enclosed information to provide some basis for understanding the Natives' perspective on the exchanges.

We believe the exchanges as a whole are in the best interests of the citizens of the state, and believe that the State's direct participation in the exchanges will be of even greater benefit.

We hope you will take the time to review this material as the exchanges promise to be a major issue during the upcoming legislative session.

Sincerely,

Akhiok-Kaguyak, Inc.
Doyon Limited
Gana-A'Yoo Limited
Koniag, Inc.
Native Lands Group, L.P.
Old Harbor Native Corporation

:pat
51/027

FOR IMMEDIATE RELEASE

December 14, 1987

By:

Akhiok-Kaguyak, Inc.
Doyon Limited
Gana-A'Yoo Limited
Koniag, Inc.
Native Lands Group, L.P.
Old Harbor Native Corporation

SUMMARY

The State of Alaska made a monumental mistake last February that could cost it substantial revenues if not rectified soon, and now the Department of Natural Resources (DNR) is engaged in a major cover-up to divert public attention from that mistake.

Instead of waving misleading and self-serving analyses regarding the proposed land exchanges which are creating an atmosphere not conducive to the opening of ANWR itself, the State should be answering one key question. It is a question every citizen of Alaska should be asking his/her Governor and elected representatives ....

Why is the State of Alaska not participating in the land exchange process?

Consider:

- The State of Alaska was an active participant with Native corporations in land exchange negotiations for many months before the spring of 1987. Then, in February, DNR Commissioner Judy Brady and her staff convinced the Governor that even with its unique access to proprietary data, DNR did not know enough about the subsurface resources and was thus unable to select desired oil and gas tracts in ANWR, and the State abruptly pulled out of the exchange negotiations.

- In October after Native groups had made their tract identifications in ANWR, and with no new data available, Division of Oil and Gas Director Jim Eason made a startling about-face. He suddenly produced a geological structure map and report and announced that the tracts identified by the Native corporations were on the most prospective structures.

Question:

Why did the Division of Oil and Gas, with its unique access to both proprietary well and seismic data, fail to provide that information to the Governor in February before the decision was made to withdraw from the exchanges?

The answer appears, in hindsight, to have been a failure in judgment by the Division of Oil and Gas in citing the "... inability of anyone to select desired tracts, not just the State ...."* How is it then that the Native corporations were able to make selections that the state now considers so valuable?

Even today, however, the State still retains an unparalleled opportunity to protect the State's position in ANWR and to participate in decisions regarding that refuge -- all by immediately rejoining the land exchange process.

Consider:

- The Fish and Wildlife Service (FWS) has repeatedly expressed interest in exchanging lands in ANWR for approximately 700,000 acres of state lands.

- The state lands desired by the FWS have public values of approximately $600/ac (total: $420 million).

- The State already has determined that the highest and best use of these lands is for wildlife habitat purposes, and the Alaska Department of Fish and Game will retain management control of these lands even if they enter the refuge system.

- Although Native corporations have identified tracts, tremendous opportunities remain because the resource potential is so great. The corporations did not have enough exchange value to even approach selecting all the most promising prospects. Specifically, over 20 tracts valued in excess of $700 million are now available to the State right atop the most promising structure in ANWR.

- In other words, for less than seven tenths of one percent of the State's 105 million acre land entitlement, the State can essentially turn 700,000 acres with very low "commercially economic" values into $420 million worth of land selections in the heart of the most promising oil and gas structure in North America.

Question:

Does DNR's present course of action really benefit the State's citizens in the long-term?

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*See: Alaska Division of Oil and Gas response to "Critique of a Critique," November 20, 1987.

Consider:

- Virtually all knowledgeable observers have agreed for some time that the State will not retain its 90% share of federal revenues from oil and gas development within ANWR. A much more likely figure will be 50% of revenues as Governor Cowper indicated would be acceptable in his most recent testimony before Congress.

- For Alaska, the potential to participate directly in ANWR oil and gas rights is a "once-in-a-century" opportunity. In fact, it may well be the last such opportunity of any consequence.

- By joining the exchange process now the State assumes a "win-win" position. If it successfully retains its 90% share of federal revenues, it can simply drop the exchange. If Congress reduces the State's share to 50%, the State can execute its option for exchange and completely protect the other 50% of revenues on the high-value tracts it will have selected.

- Irrespective of whether the Native exchanges are approved, if the State does not participate in an exchange, and Congress reduces its revenue share to 50% as expected, the State effectively will have walked away from substantial revenues by refusing to exchange a mere fraction of its land entitlement for oil and gas rights in ANWR.

Question:

Why is the State not at the land exchange table?

DISCUSSION

We are appalled by the shoddy and frankly embarrassing tactics employed by DNR in its attacks on the ANWR land exchanges. The State appears bent upon fulfilling its own prophesy that the proposed exchanges will detract from the major question of Congressional approval to open ANWR. On December 9th, for example, DNR released an analysis of the evaluation procedure for Native refuge inholdings. The analysis was both inaccurate and misleading.* Perhaps more disturbing, it was deliberately designed to preempt the legislative process, and to stifle further public discussion of the proposed land exchanges. This tactic should be deplored by all Alaska citizens. As ANWR land exchange participants, representing over 25,600 Alaska Native shareholders, we call upon the Governor of Alaska to bring a rational approach to public discussion of the proposed exchanges, regain control over his cabinet, and to rejoin the land exchange process.

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*See attached: Native Participants' Response To The State of Alaska's Analysis of Evaluation of Corporation Lands To Be Acquired In The Proposed ANWR Land Exchanges

The State of Alaska was an active participant in the land exchange process before leaving it in February of this year. If the ANWR land exchanges are as good a deal as the Division of Oil and Gas now claims, then the State left on the table substantial monies - far in excess of the purported loss in revenues that DNR claims would be effected by these ANWR land exchanges. DNR made a bad decision for Alaska citizens when it urged the Governor to pull out of the land exchanges, and it has been trying to divert public attention from that mistake ever since.

The State claims it left the negotiating table in February because of the inability for anyone to select desired tracts in ANWR. However, in October the Division of Oil and Gas claimed that the resources in ANWR were so valuable that they should not be considered for exchange with private parties because of the extraordinary loss of public revenues. How can DNR, when no additional data has been made available, go from knowing so little to knowing so much about the subsurface values? DNR can't have it both ways.

The State of Alaska will reap considerable revenues from its severance and corporate income taxes on Native corporations' operations in ANWR. Moreover, the Native corporations are, first and foremost, Alaskan corporations. They will spend and distribute funds locally.

The exchanges will accelerate exploration and production from these important oil and gas lands. Resulting impacts on jobs, local taxes, and earnings will be substantial, and will come three to five years sooner than through the normal federal leasing process.

DNR, through its misguided assumption that the State will continue to retain a 90-10 revenue split, has intentionally skewed the "cost" of these exchanges.

Through its participation in the negotiating process, DNR knows full well there has been no sinister secret plot involved in the negotiation and valuation processes, and, in fact, DNR officials were meaningful participants for a major portion of these processes.

Prior decisions by Congress and DOI dating back to the 1960s assigned values to wildlife lands which equaled or exceeded the values for comparable Native inholdings involved in the ANWR exchanges. DNR knows full well that the public value standard is a perfectly legal and logical one, under which both DOI and Congress traditionally have operated in Alaska. For example, recent Congressionally approved Alaska land acquisitions equal or exceed the negotiated public values of these exchanges.

The State has substantially prejudiced its ability to obtain full value for lands that it might trade with the federal government in the future by abandoning a long standing concept of remote land valuation - that of "public value" as opposed to the more narrow commercial "fair market value" criteria. DNR Commissioner Brady's statement that State officials would like to see the trade based on the market value of the Native lands is an unprecedented and extremely short-sighted position for DNR to take. It is also contrary to the State's position while it was participating in the exchange negotiations.

Combined with DNR's position that lands must be surveyed and patented before an exchange so the exact acreage is known, Commissioner Brady will now have to withdraw the State from the "Denali Land Exchanges" it has been negotiating for years with the National Park Service because both the state and federal lands involved are neither patented nor surveyed, nor have fair market value appraisals been conducted.

CONCLUSION

We are shocked and appalled by DNR's deliberate attempts to manipulate and mislead the Alaskan public. The two DNR papers regarding the valuation of ANWR tracts and the Native refuge inholdings to be exchanged for those tracts employ what can only be characterized as disingenuous, misleading and skewed analysis in an attempt to justify DNR's position and cover up the State's decision to withdraw from the exchanges. Unfortunately, beneath all the shrillness and extreme positions taken in the reports, they also do a disservice to the Alaska public.

The real question that should be asked at this time is why DNR is trying so hard to cover up its misguided decision in February of 1987 to leave the land exchange table. Had the State continued to participate, it would have had an opportunity to exchange lands of low "commercially economic" value (but high public value) for lands which, by its own admission, have substantial oil and gas potential. Such a decision would have allowed the State to enjoy 100% of revenues that may be available under those lands instead of the fraction the federal government decides to toss its way.

It appears now that the State is trying to stop a process which it had encouraged through full knowledge and participation. Now, it is trying to obscure its misguided decision to leave the negotiating table by creating a smokescreen of half-truths and outright misrepresentations designed to subvert the entire process.

We respectfully call on the Governor to publicly reassess the State's abandonment of the ANWR land exchange opportunity. We also respectfully ask the Governor to consider the inconsistencies, misstatements, and grave policy errors exhibited in DNR's positions. Not merely the credibility of his administration, but the fair consideration of this and future trades by the State of Alaska are at stake.

Native Participants' Response To The State of Alaska's Analysis of Evaluation of Corporation Lands to be Acquired in the Proposed ANWR Land Exchanges

SUMMARY

The six Native participants in the proposed ANWR land exchanges are both surprised and saddened by the recent release of the State of Alaska's "Analysis of Evaluation of Corporation lands to be Acquired in the Proposed ANWR Land Exchanges." Surprised because it is such a slip-shod, hastily written document that clearly exhibits a lack of knowledge of the exchange negotiation process. At best it is an inept attempt to review the administrative record - at worst and attempt to misrepresent the valuation process.

We are saddened because the State has been reduced to making such irresponsible accusations in its single-minded objective to destroy the land exchanges despite overwhelming evidence that it is not only in the best interests of the State to support the exchanges, but also to rejoin the exchange process itself.

A review of the issues drawing state criticism shows where its analysis is misguided.

First, the State exhibits at best a cloudy understanding of the evaluation process using "public values" instead of classical "fair market values." It incorrectly assumes that fair market value is somehow a starting point and goes on to imply that something is improper with the evaluation process reaching higher public values despite numerous congressional precedents. It also "quotes" nonexistent language from the U.S. Constitution to support its position.

Second, the State arrogantly accuses DOI of not accurately accounting for ANCSA Section 22(g) effects when no one, least of all the State, can determine the precise effects since the issue is still in its infancy and has yet to be litigated.

Third, the State disregards the administrative record and incorrectly accuses DOI of inconsistency in applying discounts for retained access easements on Native inholdings.

Fourth, it chastises DOI for not obtaining the subsurface estate under Native inholdings while being ignorant of, or ignoring, the decades-old Fish and Wildlife Service policy of not obtaining subsurface resources under inholdings because it is simply not cost effective. Also, it suggests that the corporations may have carefully excluded subsurface estate from the exchange to avoid the revenue-sharing requirements of ANCSA Section 7(i) when the record shows that over 107,000 acres were offered by the corporations specifically to include a 7(i) component in the exchanges.

Fifth, the State ignores almost 30 years of Alaska land selection, transfer and management history and severely restricts future state management and land exchange options by waving a red flag questioning the certainty of land title. Additionally, the analysis reveals the State's dismal ignorance of the exchange's protections of federal interests from future navigability determinations, and of the Fish and Wildlife Service - Native Land Bank agreements.

In summary, the analysis exhibits such ineptness and is of such poor quality that it is an embarrassment to the citizens of Alaska.

DISCUSSION

The State's analysis of the valuation process of Native corporation refuge inholdings to be acquired by the Department of Interior (DOI) through the proposed ANWR land exchanges is flawed in both its factual basis and its conclusions. The document clearly exhibits a lack of knowledge of the negotiation process, and is at best an inept attempt to review the administrative record, or at worst a deliberate attempt to misrepresent the valuation process.

Throughout the state analysis runs the inuendo that because arms-length negotiations of values occurred in private the public good has somehow been compromised. This is absolutely incorrect. From the onset of negotiations all parties knew that the details of the proposed exchanges, including the valuation of Native corporation lands, would be subjected to rigorous public scrutiny before Congress, in the media, and probably the courts. The actions of those involved were taken accordingly, and the Native participants welcome public scrutiny of the record.

The State's analysis focused on five major areas. These are summarized below with an accompanying response.

1. Public Value vs. Fair Market Value

   State: DOI did not follow uniform federal land appraisal practices. Instead, it substituted subjective factors through negotiation to inflate the final value of the corporations' surface estate refuge inholdings.

   Calculating an averaged appraised fair market value for the inholdings, and comparing it with the average final negotiated public values, the State contends that "The average $/acre value of the Corporation land increased through negotiation by an average of $490.16/acre, or approximately 539 percent." The State implies that this is unconstitutional because it does not adequately protect the public which is to pay for the acquired inholdings.

   Response: There is nothing at all inappropriate about the difference in the values. The ANWR land exchanges are specifically being negotiated under the Secretary of the Interior's authority to conclude land exchanges based upon "public values." While the exchanges

will be comparable value exchanges, that does not mean the comparable values must be "fair market values." Simply put, the ANWR exchanges are not "fair market value exchanges" in the classical sense of Fish and Wildlife Service (FWS) acquisitions in the Lower 48 states. DOI, logically, is operating under the specific authority of Section 1302(h) of the Alaska National Interest Lands Conservation Act (ANILCA) which authorizes land exchanges in Alaska for other than equal economic value, if it is determined they are in the public interest. DOI has made that determination for the ANWR exchanges. Therefore, while fair market value appraisals were conducted as a benchmark for comparison with final negotiated values, DOI determined that the "public values" associated with the Native inholdings are the basis upon which the exchanges should be concluded.

There are numerous precedents of congressionally approved purchases of lands based strictly on public values, not fair market values. An example may be found in Section 1417 of ANILCA which approved the purchase of the cliffs supporting the large seabird colonies on the Pribilof Islands strictly on the basis of public values. In addition, the negotiation record shows analyses of similar values paid by FWS to acquire hundreds-of-thousands of acres with comparable public values over many years from refuges throughout the United States. By definition, once FWS purchased or condemned these inholdings for their fair market value, that value immediately equated to the "public value" of the lands, else they would not have been purchased.

Therefore, the State's contention that the ultimate negotiated values somehow "increased through negotiation" from the appraised "fair market value" is spurious. There is no basis to use the fair market values as a starting point in negotiations. The Alaska Native corporations are well aware of the very significant public values found on their lands, and are unwilling to accept the unrealistically low fair market value as equitable in these exchanges. Unlike many refuge inholding acquisitions in the Lower 48 states, FWS does not have condemnation authority on lands transferred by the Alaska Native Claims Settlement Act (ANCSA). Thus, the only realistic way DOI could bring these inholdings into the refuge system is by negotiating on the basis of public values, which the Secretary has done.

As an aside, it is interesting to note that the State's quote of non-existent language from the "Constitution of the United States" shows it is working under a different constitution than most of the rest of us.

2. Effects of ANCSA Section 22(g)

State: The negotiated values for the corporation lands do not accurately account for the effects of Section 22(g) of ANCSA.

The effect of Section 22(g) constraints upon Native refuge inholdings is a matter of conjecture upon which reasonable people can disagree. There is little empirical evidence upon which to base any conclusion, and uncertainties abound because the issue has never been litigated. The appraisal letter by Dirksen Appraisal Company, referenced in the State's analysis, appropriately says that the impact of Section 22(g) could reduce values from a low 10% to a high of 90%. This supports the view that the impacts may range widely depending upon a specific situation and the observer involved. The State's attempt to use the Dirksen letter's observation that the FWS appraisal "overstated the market value of the Koniag lands by 40 - 45%" is not germane since he is referring to the appraised fair market values which, as noted above, were so low as to not be relevant to the exchange negotiations.

The inability of the State to determine the extent to which Section 22(g) resulted in a discount effect on Native inholdings must not be taken to mean that a clear policy did not exist. Section 22(g) discounts ranging from a low of 5% to a high of over 65% were assessed against inholdings depending upon the degree of development pressure. Therefore, lands in far western Alaska with relatively little threat of eminent development were discounted at the low end of the scale while prime river front recreational parcels on the Kenai Peninsula were discounted at the high end of the scale. This information is in the record. Why did the State choose to ignore it?

3. Access Easements

State: The negotiated values of corporation lands do not accurately account for the effects of the corporations retention of subsistence access easements.

The State contends that the retained access easements on Native inholdings was not consistently accounted for in the evaluation process.

Response: Again, the State's disregard of the administrative record is not a valid basis to conclude a lack of consistency in the valuation process.

All inholdings upon which an access easement was retained were discounted by 2%. The fact that this is mentioned in the Koniag proxy statement but not mentioned in the Old Harbor proxy statement merely reflects the decisions of the drafters of those two documents as to whether the point needed to be included in those statements. Doyon's lands included a retained access easement reduction of 2% on only 30% of its inholdings simply because it decided it only wished to retain an easement on those particular lands. Doyon's remaining lands do not contain a retained access easement and therefore the values of those lands was not reduced.

4. Subsurface Estate

State: Negotiated values of the corporation lands do not recognize the risk associated with the corporations' retention of the subsurface estate.

The State's analysis makes two points.

State: By not obtaining subsurface estate during the exchange FWS is risking future impacts to the surface.

Response: In not seeking to include subsurface estate in the ANWR exchanges FWS is merely practicing a decade-old policy of not spending public monies to obtain subsurface estate under refuge inholdings because history has shown that it is simply not cost effective. Over 90% of the impacts to refuges are from surface users, not subsurface users. In those instances where subsurface resources have been developed (e.g., Aransas NWR, Kenai NWR) reasonable and workable solutions to permit development with minimal surface environmental impacts have been worked out. For a given dollar, history has shown it makes eminently more sense to purchase additional surface estate than to purchase any subsurface estate under refuge inholdings.

Additionally, had subsurface estate been included in the exchanges, the State would have been undoubtedly even more strident in its criticisms by claiming that the value of such subsurface resources could not be properly ascertained as they have charged in ANWR.

It is interesting to note that in point #1 above the State condemns FWS for not adhering to normal evaluation standards (i.e., for using public values rather than fair market values), while here it makes an 180° turn and attacks FWS for adhering to its long-standing practice of not obtaining subsurface estate.

State: Subsurface resources might not have been included in the exchanges because that might have triggered the ANCSA Section 7(i) mechanism which requires regional corporations to share 70% of revenues from subsurface resources among all Native corporations.

Response: First, over 57% of the subsurface estate under Native inholdings proposed for exchange is already held by the federal government. Second, a total of at least 107,000 acres of subsurface estate under exchange inholdings was offered to DOI specifically to include a Section 7(i) component in the exchange. For the reasons cited above, the offer was rejected by DOI.

5. Uncertainty of Land Title

State: The negotiated values for the corporation land do not reflect the title uncertainty associated with the land.

The State contends that in its valuation of inholdings the federal government has not discounted those values for uncertainties related to title. The State believes the federal government may be getting questionable title due to the "selected" status of some of the lands, the fact that navigability determinations have not been concluded on all lands involved, and because of lack of survey.

Response: Because of the tremendously large acreages which have been selected and conveyed to the State and the Native corporations, rational mechanisms to allow for management of lands in Alaska have been devised since statehood to address the problems inherent in such huge land transfers. Large landowners have, are, and into to the foreseeable future will, continue to buy, sell, and exchange lands to conduct the necessary business of society. For the State of Alaska, as the state's second largest landowner, to imply that actual title to lands must be received and that they must be surveyed before they can be exchanged or otherwise conveyed is not only shortsighted, but verges on irresponsibility. Under the State's criteria as set out in its analysis, it will now have to pull out of the "Denali Land Exchanges" with which it has been negotiating with the National Park Service for some time as both the state and federal lands involved are neither patented nor surveyed. Thus, the State will not know the acreage it will receive or convey.

With respect to the State's concern that lands under navigable waters belong to it rather than to the Native corporations, and that the federal government may therefore be paying for land it will not receive, a proper reading of the exchange agreements clearly would show that it is the Native corporations, not the federal government, which will lose entitlement if the State is successful in proving navigability. This was agreed to by the Native corporations specifically to prevent any accusation that the federal government would not receive full title to lands which might ultimately be determined navigable and therefore belong to the State.

Likewise, if the State proves navigability on Native-owned tracts in ANWR, it is the Native corporations that will have paid very high values for acreage actually belonging to the state. The Native corporations, not the federal or state governments, are therefore accepting all the navigability risks.

Lastly, the State is woefully ignorant of the terms of the Gana-A'-Yoo Alaska Land Bank agreement. Not only does FWS not have "exclusive management control" over the Gana-A'-Yoo land banked lands (FWS has no direct land management authority over them at all), but Gana-A'-Yoo can withdraw its lands at any time for development purposes.

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ANWR LAND EXCHANGES

SUMMARY

I. AN OVERVIEW OF THE PROPOSED EXCHANGE

For the past two years, representatives of the Department of the Interior (DOI) have been discussing the possibility of acquiring certain lands within national wildlife refuges in Alaska owned or selected by Alaska Native corporations. DOI currently is negotiating with six different Native entities: (1) Koniag, Inc., a regional corporation which is merged with certain village corporations within its region; (2) Doyon, Ltd., a regional corporation; (3) Gana-A'Yoo, Ltd., a consolidated corporation comprised of several former village corporations within the Doyon region; (4) Native Lands Group, L.P., a limited partnership consisting of a subsidiary of Cook Inlet Region, Inc., a regional corporation, the Aleut Corporation, a regional corporation, and several village corporations in the Cook Inlet and Calista regions; (5) Ahkiok-Kaguyak, Inc., a consolidated corporation comprised of two former village corporations in the Koniag region; and (6) Old Harbor Native Corporation, a village corporation in the Koniag region. These six entities represent a total of 18 Native corporations.

Acquisition of the Native inholdings would be accomplished by exchanging Native lands for limited oil and gas interests in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR). The exchanges are designed to benefit the national wildlife refuge system by acquiring approximately 891,000 acres of Native-owned inholdings in seven Alaska refuges.

The land exchanges will be on an equal value basis and will not be implemented until Congress enacts legislation: (1) opening the Coastal Plain of ANWR to oil and gas exploration and development; and (2) approving the land exchanges. In exchange, the Native corporations will receive limited rights to extract oil and gas in ANWR for a finite period of time. At the end of that time, all title in ANWR will revert to the federal government. Title to Native lands conveyed in the exchange would stay with the federal government in perpetuity.

II. WHY THE NEED FOR AN EXCHANGE?

Pursuant to the provisions of the Alaska Native Claims Settlement Act (ANCSA), forty million acres of land were conveyed to Native village and regional corporations in Alaska. A portion of these lands constituted the heart of several Alaskan refuges, encompassing some of the most valuable lands providing critical habitat for brown bear, eagles, salmon, several species of geese, moose, deer, fox, sea otter, sea lions, seals and millions of pelagic and migratory birds. In addition, the lands provide some of the best sport fishing and hunting opportunities in Alaska. However, because of their status as private lands, the level of control which can be exercised by the Fish and Wildlife Service over them is limited. Like most ANCSA lands, title cannot be acquired through condemnation by the United

States for refuge purposes. Because of the lands' high recreational values, some of the corporations owning them are subject to pressures to subdivide them for distribution to their shareholders or sale to third parties.

ANCSA was a major blow to refuge management, and the DOI has considered a number of alternatives for transferring Native inholdings back to the government, either through exchanges or outright purchase. However, federal budgetary constraints have prevented direct purchase of inholdings. DOI wishes to acquire as many inholdings as possible, thus assuring compatible management within the refuge system.

III. BASES FOR THE EXCHANGES

The bases for the exchanges will be value for value rather than acre for acre. Each corporation will receive rights to explore for and develop any oil and gas on tracts in ANWR whose total value equals the value of the refuge inholdings it exchanges. Each Native corporation's land was valued through a series of individual negotiations conducted with DOI over several months. Through an ANWR tract identification process, which was completed during the week of July 6, 1987, the corporations individually identified tracts of land in ANWR that each would receive if the land exchanges are completed.

IV. ANWR TRACT IDENTIFICATION

The DOI divided the Coastal Plain of ANWR into 576 tracts, each containing approximately 2,560 acres. Based upon its potential for oil and gas development, the Bureau of Land Management (BLM) then computed the exchange value of each ANWR tract in the same manner it would calculate a minimum acceptable bid for a contemporaneous competitive federal lease sale, with one important exception. In a typical competitive federal lease sale, royalties which are paid to the U.S. Government by the lessee, if oil is found, are assumed to be costs to the lessee; and the value per acre of a tract is reduced accordingly. However, under the proposed land exchanges, the government would not receive any royalties from the tracts which are exchanged. Therefore, in valuing the ANWR tracts, the government increased the tract values by the present value of the royalty component. Thus, the value of each ANWR tract included the value of the royalties which the government will not receive from such tracts if the exchanges are approved. In other words, the exchange value of the ANWR tracts established by the DOI was higher than a lease sale minimum bid to account for the loss of royalties. Also, it should be noted that royalty payments would be received from a lease sale only if there is oil production, while in the case of the exchanges the government will receive the royalty value in the form of Native inholdings whether or not there is any oil production from that tract.

During the tract identification process, the six participants identified the acreage of ANWR land each will receive if the exchanges take place. The participants as a group chose 65 whole tracts and 8 partial tracts covering

166,278 acres, with an aggregate exchange value of $538,700,000. Individually, each participant chose whole and/or partial tracts up to the value of the inholdings it is willing to exchange.

Table 1 reflects the amount of land each participant is willing to exchange, the value placed upon that land by DOI, the acreage identified within ANWR, and the value of the ANWR acreage as determined by DOI. Table 2 presents the acreage the Alaskan refuge system will acquire through these exchanges.

TABLE 1:

LANDS TO BE EXCHANGED AND THEIR VALUES

	Native Inholdings		Identified ANWR Tracts	
Corporation	Acres	Value (millions)	Acres	Value (millions)
Old Harbor	89,000	$ 45.7	57,579	$ 45.7
Akhiok-Kaguyak	115,000	74.9	19,237	74.9
Koniag	112,000	77.4	3,183	77.4
Doyon	220,000	121.7	43,367	121.7
Gana-A'Yoo	56,000	35.0	21,914	35.0
Native Lands Group	298,000	184.0	20,898	184.0
TOTAL:	890,000	$538.7	166,178	$538.7

TABLE 2:

ACREAGE TO BE ADDED TO EACH REFUGE

Wildlife Refuge	Acres	Native Participant Offering Land
Alaska Maritime	86,000	Old Harbor, Native Lands Group
Innoko	125,000	Doyon, Gana-A'Yoo
Kanuti	75,000	Doyon
Kenai	33,000	Native Lands Group
Kodiak	260,000	Old Harbor, Akhiok-Kaguyak, Koniag
Nowitna	78,000	Doyon
Yukon Delta	233,000	Native Lands Group
TOTAL	890,000	

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The ANWR Land Exchange Proposals Make Sound Public Policy and Business Sense

Introduction

The Arctic National Wildlife Refuge (ANWR) exchange proposals represent a unique, once-in-a-century opportunity which will not only acquire and preserve world-class wildlife habitat lands within existing U.S. Wildlife Refuge boundaries, but, for once, will allow the benefits of the transaction to stay primarily in Alaska. For the reasons noted below, Cook Inlet Region, Inc. (CIRI) and the Native Lands Group (NLG) (composed of CIRI and 12 other Alaska Native corporations) believe these exchanges deserve the wholehearted support of the Alaska business community.

The Facts

(1) Under the six separate Native exchange proposals, the U.S. Fish and Wildlife Service would receive 891,000 acres of superlative wildlife value lands located within seven National Wildlife Refuges in Alaska.

(2) The 18 Alaska Native Corporations involved in the exchanges, representing approximately 25,600 Alaska Native shareholders, would receive 166,278 acres of limited oil and gas rights in ANWR.

(3) The ANWR lands received by the Native Corporations under the exchanges represent only 11% of the acreage of the ANWR Coastal plain.

(4) The ANWR lands ultimately will be conveyed back to the United States after a specific period of time, whether or not oil and gas production occurs. The United States will keep title to the Native lands.

The Public Policy and Business Development Reasons Supporting the Exchanges

Aside from the environmental-interest advantages to the exchanges, there are a substantial number of public policy and practical, business-development reasons to support the exchanges. Those include the following:

1. The Exchanges Will Benefit the Private Sector of the Alaska Economy.

   The real economic issue in the exchanges is not a question of possible loss of some revenues for the State, but rather the prudent and balanced allocation of some portion of ANWR revenues from the public sector in the State to the private sector in the State. The corporations that will participate in the exchanges are first, foremost and exclusively Alaska corporations. They are "for-profit" entities. Revenues received by those corporations not only will be spent and reinvested in the state, but they will be invested in that tier of the Alaska economy -- basic goods and services -- with the greatest demonstrated multiplier effect for our economy.

2. The Exchanges Will Keep Substantially More Net Revenue In the State.

   The State, in all likelihood, will get no more than 50% revenue sharing in ANWR. The benefits to the State under this "public sector" approach thus

are limited to 50% of the standard federal lease royalty of 1/8. This boils down to only 6.25% of the pie. Viewed from the perspective of the overall Alaskan economy, the "private sector" approach represented by the land exchanges outperforms this return in four fundamental ways.

First, the Native corporations, as Alaskan private property owners, will get 100% of 100% of the property interests involved. This is much different from the less-than-whole starting point for the State government.

Second, in the event these private land owners elect to lease the ANWR lands to oil companies (a likely possibility), it is very clear that they will get far better lease terms than does the federal government (and derivatively, the State) under their leases. The benefits of these better economic terms will stay in the State as the subject of reinvestment by Alaska corporations, rather than be siphoned off to the Lower 49 by the oil companies.

Third, the Alaskan private sector lessors will retain 100% of their lease royalty, rather than the mere 50% which the State will get from the federal government.

Last, but not least, once ANWR revenues are received by the State of Alaska, 50% of these monies will go to the Permanent Fund. Those monies are invested almost exclusively outside Alaska.

Accordingly, let us assume that the State gets one-half of 1/8 from the federal government and then puts one-half of that in the Permanent Fund. This leaves 3-1/8% of the total revenue stream "inside" the state. By contrast, assume a private Native corporation gets a 1/6 (i.e., 16-2/3%) royalty. Virtually all of that stays in the state. The difference is over a five-fold advantage for the state economy under the land exchanges.

3. The Exchanges are Fair, Equal Value Transactions.

To anyone who has carefully reviewed the details of the proposed exchanges, the claim of a "give away to the Natives" is ridiculous. The exchanges are equal value trades and will be scrutinized by Congress as such. The Native land values were based on government, Congressional and quasi-public land trust comparables (in and out of Alaska) for acquisitions of valuable habitat lands. The ANWR values, in turn, were based on the standard federal government leasing methodology (i.e. the same valuation that would be used in any ANWR lease sale), plus a substantial "bump" in the values to compensate for loss of a potential royalty stream. In effect, the Natives are paying more for the ANWR lands than they would at a lease sale.

The United State is thus getting not only a premium price for the ANWR lands, it is getting a 7:1 benefit in acres received and it gets reversionary title to the ANWR lands on top of it all.

4. The Exchanges Will Not Lock-Up the Best ANWR Tracts.

Interior imposed several constraints in the ANWR tract selection process to ensure that the exchange participants would not "lock-up" all the most

promising ANWR tracts. As a result, over 87% of the ANWR tracts that Interior believes lie over hydrocarbon-bearing structures remain available for competitive leasing. Competitive leasing remains available for 89% of the ANWR Coastal Plain acreage and for 83% of the total DOI estimated value of those lands. Thus, the ANWR exchanges preserve the great majority of valuable lands on oil and gas structures for leasing.

5. A "Bidding Credits" System Is Not A Practical Substitute for the Exchanges.

It has been suggested that, in lieu of the exchanges, Alaska Native corporations should be issued bidding credits for the value of their inholdings. The corporations could then use those to bid at a lease sale. This alternative simply will not work for Alaska Native corporations.

One of the basic problems is that a bidding credits system does not allow an Alaska Native corporation to capture the value of its traded lands. Alaska Native corporations are not oil companies -- they have neither the expertise to bid knowledgeably by themselves on lease tracts nor the resources to develop the tracts themselves. Consequently, Alaska Native corporations would be forced to joint venture with an oil company or would be forced to sell the bidding credits to an oil company. Both alternatives would, as a practical matter, involve a substantial discount of the face value of the chits.

In addition to unfairly penalizing the Alaska corporations that desire to trade lands, a bidding credits system has no substantial public benefits over the exchanges. There are no conservation benefits gained because the ANWR exchange tracts will be subject to the same stringent environmental controls as will ANWR lease tracts. There are few, if any, intrinsic benefits to the Alaska economy because the credits would not inure to the benefit of the State treasury, and the benefits of the discounted values for purchase of bidding credits would go to out-of-state entities, the oil companies.

Bidding credits also have been rejected by Congress already, with respect to the Koniag lands, in 1984.

Finally, because 10 oil corporations are already participating with Alaska Native Corporations in ANWR exchanges, and roughly 83% of the total ANWR tract values remain available for competitive leasing, any change to a bidding credits system would not increase competition.

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PROPOSED ARCTIC NATIONAL WILDLIFE REFUGE LAND EXCHANGES

1. What are the proposed land exchanges? They are a proposal that the United States Government and certain Alaska Native Corporations enter into land exchanges whereby these Corporations would trade 891,000 acres of their inholdings in 7 Alaskan National Wildlife Refuges to the Government in exchange for certain limited oil and gas rights (similar to those granted by federal leases) on 166,278 acres in ANWR.

2. Why should the proposed exchanges be considered at all? The lands to be acquired by the U.S. represent some of the very best wildlife habitat in the world, and, by acquiring those lands, that habitat would come under the full protection of the Fish and Wildlife Service and the public would then have the right to use the lands which it does not presently have. By approving the exchanges, Congress can acquire key inholdings in the Refuges without having to appropriate funds directly for that purpose.

3. Aren't these proposed land exchanges usurping the right of Congress to make the decision as to whether or not ANWR will be opened to oil and gas activities? Absolutely not. The proposed exchanges have been developed only as an option for Congress to consider, if and when it decides to approve oil and gas activities within ANWR. Under the proposed exchange terms, the U.S. will not go through with the exchanges unless Congress approves them. However, until Congress has an opportunity to act, the Native Corporations are obligated to preserve the present undeveloped status of the lands being offered.

4. If it's true the Department of the Interior has been working on them for over a year, why have they been kept secret and why is Congress only now learning about them? It has only been since July that the Native Corporations have been in a position to decide whether to proceed with the proposed exchanges. Before they could decide, there were lengthy negotiations necessary to reach an understanding of the nature of the rights they might obtain, the identity and value of the lands they were willing to trade, and the identity of the lands in ANWR where they might acquire subsurface rights. Until these terms had been fleshed out, there were no details to discuss as an exchange package. Principal Senators and Congressman and key staffers were briefed on the general status of the exchange proposal activities during this prior negotiation period once the Secretary had made his decision to recommend the development of ANWR (thereby making the exchanges a possibility). Moreover, all of the proposed exchange provisions are still subject to further environmental review and public comment

before the Interior Secretary even makes a decision whether to recommend them to Congress for consideration.

5. Aren't these proposed exchanges really a "give-away" program to the Natives? The exchanges are equal value exchanges which means the assigned value of the tracts where rights may be acquired in ANWR could not exceed the value assigned to the Native Refuge inholdings offered for exchange. In establishing a value for the Native inholdings, Interior used comparables such as previous Congressional authorized purchases, Land and Water Conservation Act purchases, and other Fish and Wildlife Service acquisitions of lands with similar public values. In valuing the ANWR tracts, the Bureau of Land Management used standard procedures for determining the minimum acceptable bid for a Federal lease sale, except the value was increased to reflect the present value to the U.S. of any royalties it would receive under a lease. While the royalty value would have been received under a lease only if there was production, in the case of the exchanges, the U.S. will receive value in the form of the Native inholdings, whether or not there is any production.

6. Won't the exchanges deprive the U.S. Treasury of revenues? If the proposal is approved, the ANWR lands offered for exchange would not be available for a lease sale. However, the U.S. will have received value in the form of the lands it will acquire from the Native Corporations. Because the Corporations' lands are private lands, if the U.S. wished to acquire them, it would have to pay otherwise for them, which would ultimately involve a cost to the United States Treasury.

7. Would Congress take a risk with public resources by allowing these ANWR tracts to be conveyed without competitive bidding? For potentially valuable tracts, competitive bidding is generally regarded as the best assurance that fair value is received, but competitive bidding does not guarantee accuracy in determining value. The value assigned to the ANWR tracts used as compenstion in this acquisition-by-exchange proposal was established by the same analysis used prior to other federal competitive lease sales. All land exchange proposal value determinations will be subjected to Congressional approval, employing independent evidence of value which should include an LEIS, public testimony, and possibly a GAO analysis. Taken in combination, there shou d be sufficient evidence available to allow Congress to decide whether the value of the potential acquisitions for the National Refuge System supports a decision to convey a small percentage of the total ANWR tracts and values without competitive bidding.

8. Are there any other ways to acquire the Native Corporation inholdings? Since the lands by statute cannot be condemned, they can only be acquired through negotiations. (Section 1302(c) of the Alaska National Interest Lands Conservation Act established an offer to exchange as a first option for Government acquisition of inholdings.) Congress could always appropriate the funds to purchase them; however, this is not considered as a strong alternative because of tight budget constraints. The State of Alaska and certain environmental groups suggested giving lease sale bidding credits in exchange for the lands. This was rejected because the bidding credits would have value only if these Corporations actually bid at a lease sale and are awarded a tract. If these Corporations sought to sell them, the credits would be discounted heavily by industry for the same reasons. Thus, the Natives would not get full value for their lands.

9. Is it true, as some environmental groups have stated, that, as the result of these proposed exchanges, the federal government would largely relinquish the environmental control of the Coastal Plain? No. The rights proposed to be granted would be specifically subject to the standards set by Congress in opening the ANWR Coastal Plain. In addition, the proposed contract agreements include extensive environmental standards and stipulations which would be subject to Congressional approval or modification. These standards further provide that when regulations are adopted to govern activities in the Coastal Plain, those regulations will govern as well the Native Corporation activities on the tracts in ANWR where subsurface rights are acquired through the exchanges.

10. If Congress decides to open ANWR, is there anything left for leasing if it approves the exchanges? Over 87% of the on-structure tracts in the Coastal Plain would remain for leasing, if the exchanges are consummated. The remaining value of these on-structure tracts for leasing is over 83%.

11. If ANWR is opened, would the proposed exchanges give an unfair advantage to the oil companies with agreements with the Native Corporation participants? There are presently approximately 10 oil companies with arrangements with the Native participants. The proposed exchanges could permit certain activities to occur in advance of a lease sale. Thus, in a lease sale, those companies may have more knowledge than other companies bidding (as a result of the Kaktovik well, two companies already do). However, the public's interest is protected because under the proposed agreements all information obtained by these companies would

be required to be provided to the U.S. Governments. This information will substantially enhance the Government's ability to ensure it receives the maximum value on all remaining tracts at any lease sale which may be held.

12. Aren't the exchanges really premature? Shouldn't further work on them be delayed until Congress decides whether to open ANWR? The land exchange proposal has several additional administrative steps to be completed before it could be sent to Congress. In order to have all of the information available which Congress would need to consider a formal Proposal, Interior should proceed immediately to prepare a Legislative Environmental Impact Statement. This "LEIS" would not only analyze the environmental impacts of these exchanges, but would also provide the public with ample opportunities to learn more about and to comment on the proposed exchanges. Only after this analysis is completed and the public input has been received will the Secretary be able to make the decision whether he will forward the exchange package to the Congress for approval. In order to complete the LEIS, at least 6 months of work is required. Thus, in order to have adequate information available for Congress to consider early in 1988, work must be commenced as soon as possible and public input be solicited. The LEIS process will allow the land exchanges to be examined in another forum while the Congress addresses the separate ANWR-opening issue on its own merits.

Koniag, Inc.

November 16, 1987

The Honorable Donald Paul Hodel
Secretary
Department of the Interior
Main Interior Building
18th and C Streets, N.W.
Washington, D.C. 20240

Re: ANWR Land Exchange

Dear Secretary Hodel:

We have recently received a copy of Governor Cowper's letter to you dated October 28, 1987, and a copy of Critique of the proposed ANWR Land Exchanges prepared by the Alaska Division of Oil and Gas ("ADO&G"). While we would not normally comment on a position taken by the Governor in correspondence with you, the letter has been released to the press. Because of the obvious misstatements, inferences and inconsistencies in the purported analysis prepared by ADO&G upon which the Governor appears to be relying, we are compelled to respond.

As you are aware, the land exchanges present an unparalleled opportunity for the United States to acquire lands which would not otherwise be available to the United States. The acquisition of these lands and the preservation of the integrity of the refuge system is an issue of critical importance to the federal government.

In outlining the areas of greatest concern to the State, the Governor states that the exchanges will divert attention from the larger question regarding the opening of ANWR. We disagree with the Governor's conclusion as to the impact of the exchanges, because it is our belief that the exchanges provide Congress with an opportunity to acquire lands for the public which would not be

Anglo Energy Building • 4300 B Street, Suite 407 • Anchorage, Alaska 99503 • (907) 561-2668 • Telecopier: 562-5258

otherwise available. The only two groups that seem to consistently raise the exchanges in the recent hearings have been the environmental groups, who have publicly acknowledged their fear that the proposed exchanges will influence Congress to open ANWR, and the representatives of the Governor's administration. We regard the current legislation on the exchanges as reflective of Congress' concern that it reserves to itself the ultimate decision. The proposed Jones bill (H.R. 3601) clearly reflects this desire of Congress.

The Governor also goes on to state that he now opposes the exchanges because they propose to trade surface values for unknown but highly prospective subsurface values. However, in March of this year, based upon the same data, he opposed the exchanges and withdrew the State from further participation in the negotiations with the Department for entirely different and inconsistent reasons. It was his belief then that the State lacked sufficient information to determine the actual location and value of any petroleum reserves, and that, therefore, the State could not obtain desirable tracts. Thus, the Governor reasoned, given the unreliability of the data, it would be inappropriate for the State to trade known surface values for "speculative" ANWR subsurface values. It was not his concern that the concept was flawed as he now asserts. It is difficult for us to understand this inconsistency in the State's reasoning. In March, the tracts were too speculative for the State to accept in exchange for known surface values, whereas in October, the subsurface values are too prospectively valuable to be exchanged. Yet no new data has been generated in the interim. As you are aware the procedures followed by BLM to determine tract values for the exchanges are the same ones used by the United States to determine values for other disposition of oil and gas interests and, to some extent the State, in determining the acceptable level of bonus compensation under the standard leasing programs.

The Governor also faults the exchanges for not acquiring the subsurface estate in those lands where it is available. It is our understanding that decision was reached by the Department of the Interior after concluding that the subsurface had little or no potential for developable minerals, making it unwise to incur the cost of acquiring it.

The last reason given by the Governor for his opposition is perhaps the most significant--the fact that the exchanges may deprive the State of revenues from the tracts. The Governor points to the ASRC/KIC exchange as an example of this, and

attempts to create the impression that this exchange is part of the pending exchange proposals. What the Governor fails to acknowledge is that under the provisions of ANILCA, ASRC had the rights to acquire the subsurface of those lands upon the opening of the Coastal Plain by Congress. Thus, in no event would the State receive any lease revenues from those lands had the exchange not been consummated. In fact, by consummating the exchange, the Department was able to acquire valuable inholdings in the National Park System at no additional cost to the United States.

With respect to the State's need for revenues, it is our understanding that, even with the very significant royalties derived by the State from its holdings at Prudhoe Bay, over 60% of the State's revenues from oil and gas is derived from taxes, the same taxes which will be levied on any interests that are acquired in the ANWR exchanges. Furthermore, our corporations are Alaska corporations which do most, if not all, of their business in Alaska. Any dollars we earn are spent locally helping the economy of the State. Our shareholders are by and large all residents of the State and likewise to the extent we are able to pay dividends, those dividend dollars are immediately put into the State's economy.

Because the Governor's position is in a large part based upon the ADO&G Critique, we have taken the liberty of attaching a brief review of that document for your consideration. In our judgment, the ADO&G Critique is not an honest and factually accurate analysis of the proposed exchanges. Inasmuch as the Governor has relied upon that Critique, he has been ill served.

We neither agree with nor understand the Governor's opposition to the proposed exchanges. Suffice it to say that his position is not shared by the Alaska State Senate which adopted a Resolution this spring addressing exchanges in a more positive light. Nor is there any evidence that it is shared by the Alaska Congressional delegation. It may be that the State administration fails to understand the implications of national policy when viewed from the more narrow perspective of State self interest. The acquisition of critical inholdings in these Refuges is a national issue which has implications far beyond the day-to-day operations of the State.

We appreciate the opportunity to correct some of the misinformation that has been so broadly circulated by the State.

Respectfully,

NATIVE LANDS GROUP

By: _____
Margie Sagerser Brown

AKHIOK-KAGUYAK, INC.

By: _____
Ralph Eluska

DOYON LTD.

By: _____
Morris Thompson

GANA-A' YOO LIMITED

By: _____
Max Huhndorf

OLD HARBOR NATIVE CORPORATION

By: _____
Emil Christiansen

KONIAG, INC.

By: _____
Frank Pagano

cc: Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Assistant Secretary William Horn

CRITIQUE OF A CRITIQUE

The following is not intended as a line-by-line rebuttal of the statements in the Critique of the Proposed ANWR Land Exchanges prepared by the Alaska Division of Oil and Gas, but seeks to address the more fundamental inaccuracies and misstatements contained in the document. These inaccuracies go to the heart of the analysis and cast very substantial doubts on its validity.

ASRC Exchange.

The Critique clearly misstates the impact of the proposed exchanges by including with them as an integral part of its analysis the 1983 Arctic Slope Regional Corporation ("ASRC") Exchange. The ASRC Exchange is in no way involved with the present proposed exchanges. Two-thirds of the lands received by ASRC under that exchange is outside the Coastal Plain as defined by Congress. Furthermore, in ANILCA, Congress mandated that upon the opening of the Coastal Plain of ANWR, ASRC was authorized to acquire those same lands by exchanging on an acre-for-acre basis other subsurface lands which it owned. It was only as the result of the 1983 exchange that the United States was able to receive any lands of value for the rights granted by Congress. Correspondingly, as the result of ANILCA, the ASRC Lands would have never been available for leasing by the United States and thus no bonus could have ever been derived from them. Notwithstanding this very obvious distinction, the author of the Critique repeatedly includes these ASRC Lands in his analysis, resulting in over a 50% overstatement of the acreage actually involved in the proposed exchanges.

Valuation.

Likewise, the State's analysis of the valuation process is equally flawed. Rather than valuing the oil and gas in place, the procedure which was utilized sought to place a value on the right to explore, develop and produce any oil and gas which might be found. There have never been any representations by the United States that oil or gas will be found under the tracts or, if found, the exchange participants will ever receive sufficient income to equal the value of the tracts as determined by BLM. While the State seeks to point out that in fact if there is oil and gas present, the value of the tract could be in excess of the value established, it fails to acknowledge that there is a greater than 80% risk that there is no oil and gas under the tract and that if there is no oil or gas, the value being charged for these rights is far in excess of the "actual value" of the tract.

The procedure utilized to arrive at the value of these rights with respect to the tracts utilizes the standard methodology followed by BLM (and to some degree the State of Alaska as

well) in determining whether the compensation offered to the United States is fair value for granting such rights in a lease sale. There was, however, one important departure from the application of this methodology in the case of the valuations for the exchanges. In arriving at the exchange values, BLM added a second amount to the amount it determined to be fair compensation for the tract. The amount added was the net present value of the right of the United States to receive a royalty from any production. Thus, unlike a normal lease where the obligation to pay a royalty is dependent upon actual production, the participants were required to prepay to the United States the value of that royalty irrespective of whether or not production ever occurs from these lands. Thus, the United States bears none of the risk of whether oil or gas is present under a tract exchanged to a Native Corporation. That risk is borne solely by the Corporation and to the extent the Corporation is able to pass that risk on to a third party does not mean that the valuation process for the tracts is faulty. It should be noted that most of the participants for whatever reasons were not as successful as Old Harbor Native Corporation in passing on that risk. The participants are not in the oil and gas business and are not accustomed to taking such risks. Thus, it was only through their ability to pass on some or all of that risk to industry that they were able to go forward with the exchanges and make their inholdings available to the Refuge System.

Rescission.

Another incorrect inference suggested by the Critique is that the Native Corporations have the right to rescind the exchange and reacquire their refuge inholdings if the exploration efforts are unsuccessful, thereby depriving the United States of the consideration it received for granting those rights. While it is true that at this time one participant has negotiated a limited right to rescind the exchange with respect to a portion of its lands in consideration for the payment to the United States of an overriding royalty, of the approximately 895,000 acres of Native lands being acquired, the United States will retain approximately 820,000 acres even if that Corporation is able to exercise its rights of rescission, and even of that Corporation's inholdings, the United States will retain its best lands having a value equal to any consideration that Corporation may receive from industry, but in no event less than 35% of such lands.

Structures.

The Critique makes numerous statements regarding the Department's failure to identify all possible structures and how, based upon the State's independent analysis, every one of the 73 tracts selected by the participants is located above structures. It also asserts that all mappable closures have been exchanged or proposed for exchanges and that the tops of all of the best structures have been selected. It is surprising that this was

accomplished by the identification of only 15% of the lands within Coastal Plain, and that no selections were identified in the area of the major structure core calving area and very few in some of the other identifiable structures. What is even more surprising and calls into question the accuracy of these assertions, is that a little more than seven months ago the Governor, in giving his reasons for withdrawing the State from the exchange negotiations, stated that a major reason for his action was the unreliability of the available data and the lack of sufficient data for the State to be able to make selections. After the completion of the identification process, and with no new data than the same data which was available to the Department and most or the industry advisers of the participants, the State is now able to identify structures where before the structures had fallen through the holes in the seismic grid. The one participant whose industry advisors had the data from the KIC well, however, selected on the structures mapped by DOI.

Pre Lease Exploration.

The ADO&G Critique also expresses a concern regarding the effects of any pre-lease exploration activities of the participants which might be authorized by Congress. In opposing such activities, the Critique points to the potential lost revenues from bonuses which would be paid at a lease sale from "premature condemnation" of the area based on unsuccessful exploration efforts. If Congress were to authorize such activity, it would appear that the advantages of the United States having the down-hole data from such activities would be extremely beneficial. If the results were positive, the Department could shape the lease sale accordingly. If the results were negative and the area "condemned," the unnecessary environmental impacts from the full scale exploration efforts which would follow the lease sale could be avoided. If as the results of such activities it were determined that the Coastal Plain were to have no potential, then clearly no one would advocate holding a lease sale and permitting the environmental impacts from the resulting exploration activities to occur, solely to generate a few dollars in lease bonuses.

TESTIMONY ON HOUSE JOINT RESOLUTION # 9
ON BEHALF OF THE NATIVE LANDS GROUP
BEFORE THE HOUSE RESOURCES COMMITTEE
FEBRUARY 13, 1987

The Native Lands Group appreciates the opportunity to testify before the House Resources Committee and respectfully submits the following written testimony.

By way of background, the Native Lands Group (NLG) assemblage is a partnership of thirteen Alaska Native corporations currently offering lands in exchange for oil and gas rights in ANWR. The general partner of the NLG is CIRI Land Exchange, Inc., a wholly-owned subsidiary of Cook Inlet Region, Inc. (CIRI).

The thirteen Native corporations, with over 11,000 Native shareholders, include CIRI, a Native regional corporation and twelve village corporations in southcentral and western Alaska. Participation of each partner is determined by its contribution of land to the partnership. The corporations each have roughly equal shares in the partnership.

Opening ANWR - Role of Land Trades

The NLG urges support of the ANWR land exchange concept because we believe the exchanges will benefit the State of Alaska by facilitating the opening of ANWR for oil and gas leasing and therefore assisting the State in ultimately acquiring a revenue stream from its development.

We believe Native exchanges will play a pivotal role in the congressional debate over the opening of ANWR.

1. Native exchanges are a key basis for developing environmental support for the opening of ANWR. Native refuge inholdings to be exchanged include extremely important habitats for rapidiy declining populations of geese, as well as lands intensively used for fish and wildlife-oriented recreation. As Congressional debate intensifies, the focus of the debate inevitably will move to the tremendous public values involved in these inholdings. The contention that environmentalist groups disfavor Native land trades is a classic "half-truth." The trades have been opposed by those groups hoping to see ANWR locked up precisely because they recognize that the trades form a basis for opening up ANWR.

2. Native involvement will broaden the supportive constituencies within the Democratic congress. With exchanges, Natives will bring a new dimension to the lobbying efforts that the State and oil companies cannot bring, particularly to congressional delegates sympathetic to the concerns of Native Americans.

Besides the benefits gained in assisting in the opening of ANWR, the NLG believes Native participation in ANWR land exchanges benefits the State in other ways.

1. Native corporations are local corporations. Monies will stay within the state, and in many cases be directed to rural Alaska where economic opportunities are few and far between. Economic benefits will flow to a wide representation of Natives; shareholders of 22 Native corporations, both village and regional, are currently involved in various exchange consortiums.

2. Native corporations have strong local hire and in-state contracting provisions within the agreements with their oil industry partners, and they have a solid record for enforcing those provisions. Private sector status empowers Native corporations to enforce much stronger local hire requirements than the State because the State operates under severe constitutional restraints.

3. Oil and gas exploration will occur faster. Native corporations are not constrained by federal or state leasing regulations that of necessity have many built-in delays. Leasing terms already have been negotiated between Native exchange participants and industry partners. These call for immediate leasing and expeditious exploration. A crucial head start of a year or more will be gained in proceeding to development.

The State would directly benefit by its own participation in an exchange and is not at a disadvantage in relation to the other exchange participants.

1. State involvement as an exchange participant would allow the State to acquire ownership of highly prospective tracts in ANWR. On those tracts the State would control its own lease terms, and therefore be able to capture significantly more than a mere share of a 1/8 royalty. As the owner of 100% of oil and gas reserves on lands it acquires through exchange, the State would not be exposed to some politically variable percentage of the Federal Government's royalty share.

2. The State presently has better geological and geophysical information, taken as a whole, than any other exchange

participant. The geological data from the recently drilled well on Kaktovik Inupiat Corporation/Arctic Slope Regional Corporation land is being held confidential by the oil companies which conducted the drilling. It is not available to the Department of Interior or any of the exchange participants.

3. The State is currently negotiating its own ANWR land exchange with the Department of Interior. The State has been assured equal treatment with other exchange participants, particularly regarding valuation and selections, if it can move expediently and expeditiously toward an exchange.

We believe negative State revenue impacts from supporting the exchanges are outweighed by other revenue benefits.

1. Maintaining the 90/10 revenue sharing provision is uncertain and unlikely. The State must be prepared to make political judgements that best assure a revenue stream from ANWR. And in doing so, the harsh political realities of Congress need to be recognized.

2. Exchanges will account for only a limited portion of ANWR lands. The potential size and impact of the proposed Native and State trades have been greatly exaggerated. Because exchanges will be on a value basis, and because the values of ANWR lands are so large in comparison to the Native and State lands being proposed for exchange, the amount of land exchanged within ANWR will not significantly impair a viable leasing program for the remainder of ANWR.

3. No tax revenues would be lost due to Native exchanges. The State's sovereign authority to levy and collect taxes on all production from Native lands will remain.

4. It is doubtful whether onshore support facilities, including pipelines, could be used to support development within State submerged lands north of ANWR. Severely restricting the uses of the ANWR coastal plain may effectively condemn adjacent State and Federal lands rendering potential State losses of revenue even greater than just those losses incurred if ANWR remains closed.

We believe the land exchanges will not lead to environmental impacts or loss of land management control. Only limited oil and gas development rights will be transferred through exchanges. All surface ownership will remain within the federal Fish and Wildlife refuge system. All exploration and development will occur under strict regulatory and contractual stipulations of appropriate federal and state agencies. The combined federal and state governmental controls within ANWR would be <u>at least</u> as comprehensive as those presently exercised by the State at Prudhoe Bay.

Conclusion

The opening of ANWR is going to require a united Alaska. A divided Alaska only plays into the hands of those whose agenda it is to keep ANWR permanently closed to exploration and development. It is a fact that a divided Alaska has never achieved major lands legislation in its favor.

The NLG feels that land exchanges, both Native and State, will significantly facilitate the opening of ANWR and therefore assist the State in ultimately acquiring a revenue stream from its development.

We urge the House Resources Committee to endorse the concept of lands exchanges and to urge the State administration to move quickly to consummate its own exchange. At the very least, we feel you should defer judgement until the Department of the Interior has presented to Congress for ratification the land exchanges as actual proposals.

Thank you.

6/022

NATIVE LANDS GROUP

The Native Lands Group (NLG) assemblage is a partnership of thirteen Alaska Native corporations currently offering lands in exchange for oil and gas rights in ANWR. The general partner of the NLG is CIRI Land Exchange, Inc., a wholly-owned subsidiary of Cook Inlet Region, Inc. (CIRI).

The thirteen Native corporations, with over 11,000 Native shareholders, include CIRI, a Native regional corporation and twelve village corporations in southcentral and western Alaska. Participation of each partner is determined by its contribution of land to the partnership. The corporations each have roughly equal shares in the partnership.

from CIRI for Native Lands Group.

OPENING ANWR - THE ROLE OF LAND TRADES

By the admission of many members of all levels of State government, there exists considerable uncertainty and confusion regarding Native land exchanges and their relationship to the opening of ANWR. The Native Lands Group (NLG), a consortium of Alaska Native corporations, believes that clarifying these matters is essential to developing a fair, rational, and fact-based State policy on the Native land trades. The following discussion attempts to deal fairly with a number of the misconceptions, and to place the correct facts in the context of the basic policy issues which the State will decide in the coming weeks.

1. Native exchanges will play a pivotal role in the congressional debate over the opening of ANWR.

   a. Native exchanges are a key basis for developing environmental support for the opening of ANWR. Native refuge inholdings to be exchanged include extremely important habitats for rapidly declining populations of geese, as well as lands intensively used for fish and wildlife-oriented recreation. As Congressional debate intensifies, the focus of the debate inevitably will move to the tremendous public values involved in these inholdings. The merits of the exchanges and the benefits to the public if the exchanges are consummated will be clearly evident, and will form the basis for the compromises necessary to achieve opening legislation.

   b. Native involvement will broaden the supportive constituencies within the Democratic congress. Natives will bring a new dimension to the lobbying efforts that the State and oil companies cannot bring, particularly to

congressional delegates that are sympathetic to the concerns of Native Americans.

c. The contention that environmentalist groups disfavor Native land trades is a classic "half-truth." The trades have been opposed by those groups hoping to see ANWR locked up precisely because they recognize that the trades form a basis for opening up ANWR. For the State to mimic their environmentalist position is to play right into the hands of the opponents of opening ANWR.

2. Native participation benefits the State in other ways.

a. Native corporations are local corporations. Monies will stay within the state, and in many cases be directed to rural Alaska where economic opportunities are few and far between. Economic benefits will flow to a wide representation of Natives; shareholders of 22 Native corporations, both village and regional, are currently involved in various exchange consortiums.

b. Native corporations have strong local hire and in-state contracting provisions within the agreements with their oil industry partners, and they have a solid record for enforcing those provisions. Private sector status empowers Native corporations to enforce much stronger local hire requirements than the State because the State operates under severe constitutional restraints.

c. Oil and gas exploration will occur faster. Native corporations are not constrained by federal or state leasing regulations that of necessity have many built-in delays.

Leasing terms already have been negotiated between Native exchange participants and industry partners. These call for immediate leasing and expeditious exploration. A crucial head start of a year or more will be gained in proceeding to development.

3. The State would directly benefit by its own participation in an exchange.

a. State involvement as an exchange participant would allow the State to acquire 100% of highly prospective tracts in ANWR. On those tracts the State would control its own lease terms, and therefore be able to capture significantly more than a mere share of a 1/8 royalty.

b. As the owner of 100% of oil and gas reserves on lands it acquires through exchange, the State would not be exposed to some politically variable percentage of the Federal Government's royalty share.

4. The Natives do not have superior information to the State.

a. The State presently has better geological and geophysical information, taken as a whole, than any other exchange participant. The geological data from the recently drilled well on Kaktovik Inupiat Corporation/Arctic Slope Regional Corporation land is being held confidential by the oil companies which conducted the drilling. It is not available to Kaktovik, Arctic Slope, the Department of Interior or any of the exchange participants.

5. Negative State revenue impacts from supporting the exchanges are outweighed by other revenue benefits.

a. 90% of nothing is nothing. 50% of nothing is still nothing. The State will receive no revenues (royalty or tax) unless ANWR is opened - an event much more likely to occur if Native and State exchanges have occurred.

b. Maintaining the 90/10 revenue sharing provision is uncertain and unlikely. The State must be prepared to make the political judgement call that best assures a revenue stream from ANWR. And in doing so, the harsh political realities of Congress need to be recognized.

c. Exchanges will account for only a portion of ANWR lands. The potential size and impact of the proposed Native and State trades have been greatly exaggerated. Because exchanges will be on a value basis, and because the values of ANWR lands are so large in comparison to the Native and State lands being proposed for exchange, the amount of land exchanged within ANWR will not significantly impair a viable leasing program for the remainder of ANWR.

c. No tax revenues would be lost due to Native exchanges. The State's sovereign authority to levy and collect taxes on all production from Native lands will remain.

6. Native exchanges will not lead to environmental impacts or loss of land management control.

Only limited oil and gas development rights will be transferred to Native corporations through exchanges. All surface ownership will remain within the federal Fish and Wildlife refuge system.

All exploration and development will occur under strict regulatory and contractual stipulations of appropriate federal and state agencies. The combined federal and state governmental controls within ANWR would be at least as comprehensive as those presently exercised by the State at Prudhoe Bay.

7. If ANWR is not opened because of the failure of the exchanges to be consummated, the State faces significant revenue losses.

   a. The State will receive no revenues, either from royalties or taxes.

   b. It is doubtful whether onshore support facilities, including pipelines, could be used to support development within State submerged lands north of ANWR. Severely restricting the uses of the ANWR coastal plain may effectively condemn adjacent State and Federal lands rendering potential State losses of revenue much greater than just those losses incurred if ANWR remains closed.

Conclusion

The opening of ANWR is going to require a "united" Alaska. A "divided" Alaska only plays into the hands of those whose agenda it is to keep ANWR permanently closed to exploration and development. It is a fact that a divided Alaska has never achieved major lands legislation in its favor.

The NLG feels that land exchanges, both Native and State, will significantly facilitate the opening of ANWR and therefore assist the State in ultimately acquiring a revenue stream from its development.

We urge the State to support Native land exchanges and move expeditiously and expediently to consummate its own exchange. At the very least, the State should defer judgement until the Department of the Interior has presented the land exchange as an actual proposal.

6/015

CIRI ON TRADES FEB 87

ALASCOM Telegram

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PMS

REP SAM COTTEN

0013

JUNEAU AK

HJRS OPPOSES NATIVE LAND TRADES FOR LANDS IN ANWR, CHIEFLY ON THE BASIS THAT THE STATE NEEDS THE 90 PERCENT OF FEDERAL ROYALTIES THAT IT WOULD GET UNDER PRESENT LAW IF THE U.S. GOVERNMENT OWNS AND LEASES THE LAND. THIS REASONING IS MISGUIDED FOR FIVE REASONS.

FIRST, 90 PERCENT OF NOTHING IS STILL NOTHING. NATIVE INVOLVEMENT AND SUPPORT WILL BE ESSENTIAL IF CONGRESS IS TO OPEN ANWR AT ALL. ALASKA IS SEEN OUSIDE AS HAVING HAD ITS FLING, AND HOW MANY NEW VOTES CAN THE OIL COMPANIES DELIVER? CONGRESSIONAL SUPPORT IN D.C. TOWARD NATIVE AMERICANS AND WILDLIFE REFUGE ENHANCEMENT THROUGH NATIVE TRADES WILL OFF-SET THE INCLINATION TO CAST AN EASY PRO-ENVIRONMENTAL VOTE TO KEEP ANWR CLOSED. LANDS GIVEN UP BY THE NATIVES WILL INCLUDE EXTREMELY IMPORTANT INHOLDINGS IN OTHER WILDLIFE REFUGES IN ALASKA, SUCH AS THE MAJOR HABITAT FOR SEVERAL THREATENED SPECIES OF GEESE AND BRANDT. FEDERAL ACQUISITION OF SUCH INHOLDINGS WILL WIN THE SUPPORT OF SEVEREL WILDLIFE ORGANIZATIONS, AND FORM

PAGE 2

THE BASIS FOR THE KIND OF COMPROMISE WHICH WILL BE NEEDED TO OPEN ANWR. OPPOSING THESE LAND TRADES PLAYS RIGHT INTO THE HANDS OF THOSE WHO WOULD LOCK UP ANWR FOREVER.

SECOND, THE 90 PERCENT FIGURE IS CERTAIN TO BE REEXAMINED IF CONGRESS OPENS ANWR TO OIL AND GAS DEVELOPMENT. NATIVE SUPPORT WILL BE VALUABLE FOR THE STATE IN ITS ATTEMPT TO KEEP ITS SHARE OF FEDERAL ROYALTIES AT A HIGH LEVEL.

THIRD, THE POTENTIAL SIZE AND IMPACT OF THE NATIVE TRADE ON THE ANWR LANDS HAS BEEN GREATLY EXAGGERATED. WHILE THE NATIVES WILL BE TRADING IN VERY SUBSTANTIAL ACREAGE IT WILL BE TRADED ON A VALUE BASIS. THE VALUE OF THE ANWR LANDS FAR EXCEEDS THAT OF THE NATIVE LANDS.

FOURTH, THE TRADES WILL ESTABLISH A STRONG TAX-BASE. STATE PRODUCTION TAXES WILL BE PAID FOR NATIVE ROYALTY PRODUCTION FROM NATIVE LANDS.

FIFTH, NATIVE CORPORATIONS, BEING PRIVATE, CAN IMPOSE AND ENFORCE ALASKA HIRE PROVISIONS IN A WAY THAT THE STATE CAN NEVER HOPE TO MATCH CONSTITUTIONALLY.

FINALLY, THE BOTTOM LINE IS NOT TO LOSE SIGHT OF THE ULTIMATE OBJECTIVE OF OPENING ANWR, CREATING JOBS AND DEVELOPMENT, AND ESTABLISHING A SOUND TAX BASE FOR THE STATE. IT IS AN HISTORICAL AXIOM THAT ALASKA HAS NEVER ACHIEVED MAJOR LAND LEGISLATION IN CONGRESS WHEN THE STATE WAS DIVIDED.

ON BEHALF OF OUR 6300 SHAREHOLDERS AND THE 12 VILLAGE CORPORATIONS IN OUR REGION AND WESTERN ALASKA COMPRISING THE NATIVE LANDS GROUP, COOK

ALASCOM Telegram

PAGE 3

INLET REGION INC. ASKS FOR YOUR CONSIDERATION IN REMOVING THE PROVISIONS IN HJR9 OPPOSING NATIVE LAND TRADES.

ROY M. HUHNDORF, PRESIDENT
COOK INLET REGION INC.

CC: GOVERNOR STEVE COWPER
COMMISSIONER BRADY
COMMISSIONER KELSO

Native Lands Group

March 16, 1987

SAM = Ned
I haven't reviewed this yet but will

Mr. Ned Farquhar, Legislative Assistant
House Resources Committee
Pouch V
Juneau, AK 99811-0101

Dear Ned:

I'm sorry I was not in to take your call last week concerning the ANWR Land Exchange. Mike Smith relayed your conversation to me, and the purpose of this letter is to respond to your two requests.

You first asked the identity of the Native Lands Group (NLG) partners. While we do not believe that revealing the names of our partners would significantly influence matters one way or the other, we are bound by a mutual confidentiality agreement which binds us to refrain from identifying partners until the partnership structure is finalized. Once this has occurred, it will definitely be in the NLG's interests to make known the partners. I assure you that the House Resources Committee will be one of the first to know when that time arrives.

Regarding your second request, I am enclosing a copy of the 7(i) agreement. As you can see, it is a rather complicated document. If you have any specific questions concerning the applicability of the 7(i) agreement to the ANWR Exchange, I would be happy to try and explain the relationships or lack thereof.

Concerning the availability of information about the Arctic Slope Regional Corporation (ASRC) arbitration process, neither the NLG nor CIRI is involved in that process. I suggest you contact ASRC directly to determine the current status.

We appreciate your help in coordinating input to the House Resources Committee, and please feel free to contact us in the future if you have any further questions.

Sincerely,

NATIVE LANDS GROUP

Margie Sagerser

Margie Sagerser
Project Director

Enclosure

P.O. Box 93330
Anchorage, Alaska 99509-3330
(907) 272-3522

COOK INLET REGION, INC.

February 12, 1987

Sam Cotten, Co-Chairperson
House Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Cotten:

Thank you for responding to my recent telegram to you and other legislators regarding land exchanges in the Arctic National Wildlife Refuge.

Margie Sagerser, Project Director of the Native Lands Group, a partnership of thirteen Alaska Native corporations including CIRI, will be attending your committee meeting on ANWR land exchanges Friday 13, 1987. Unfortunately, I will be outside of the state that day and therefore unable to attend. I trust Ms. Sagerser can respond to any questions you or other committee members may have in order to become informed on this matter.

Sincerely,

COOK INLET REGION, INC.

Roy M. Huhndorf

Roy M. Huhndorf
President

RMH:pat
29/11

cc: Adelheid Herrman, Co-Chairperson
Margie Sagerser

February 6, 1987

Mr. Roy Huhndorf, President
Cook Inlet Region, Inc.
2525 "C" Street
Anchorage, Alaska 99501

Dear Mr. Huhndorf:

I am writing in response to your recent telegram about the proposed land exchanges in the Arctic National Wildlife Refuge. I appreciate being informed of your point-of-view and am certainly open to discussion of the issues.

Several members of the House Resources Committee, and some other legislators, have expressed interest in learning more about the land exchange proposals. To date, the legislature and other Alaskans have not been privy to the information needed to make decisions on many of the state interests that you mentioned in your telegram.

I hope that you will be able to attend the committee's meeting on ANWR land exchanges scheduled for Friday, February 13, 1987 from 1:00 - 3:00 p.m., Capitol 124. It would be useful for the committee to hear your points and learn more about the proposed changes.

Sincerely,

s/

Sam Cotten, co-Chairman
House Resources Committee

SC:smc

cc: Adelheid Herrman, co-Chairman

NULATO KOYUKUK
GALENA KALTAG

GANA-A' YOO LTD.

BOX 38 • GALENA, ALASKA 99741 • PHONE (907) 656-1606

March 17, 1987

House Resources Committee
Chairman, Sam Cotten
P.O. Box V
Juneau, Alaska 99811

Dear Representative Cotten:

Gana-a' Yoo, Ltd. is the consolidated village corporation for the villages of Galena, Koyukuk, Nulato and Kaltag. Our corporation is comprised of approximately 1,200 shareholder's and is the largest village corporation in the Doyon region.

This letter is to express our corporate position on the Arctic National Wildlife Refuge (ANWR) issues and our opinions on House Joint Resolutions No. 7 & 9. We support opening the coastal plain of ANWR to environmentally responsible oil and gas exploration, development, and production. We also support the concerns of the subsistance Caribou users and stand for protection of that resource. We are supportive of the Native groups who are negotiating land trades with the Department of Interior.

We are not supportive of House Joint Resolution No. 9 as it blatently puts Native against Native in their struggle to survive and improve their quality of life. House Joint Resolution No. 9 offers some protection of the core caribou calving grounds, until a later date, and in exchange demands that other Native groups pay an exhorbitant price by not allowing them a chance to trade their lands for oil and gas rights in ANWR. Such rights obtained by the Native groups would, in our opinion, not have a material effect on State revenues. The funds derived by the Native groups could well do more benefit for those people and their communities than an equal amount going through the State.

It is our position that House Joint Resolution No. 7, with the addition of reserving the leasing of land in the core caribou calving grounds until a later time, should be passed by State. We ask that you also lend your support to this position.

Sincerely,

Max J. Huhndorf

Max J. Huhndorf
President

MJH/dp

Koniag, Inc.

March 2, 1987

Representative Sam Cotton, Co-Chairman
House Resource Committee
Pouch V
Juneau, AK 99811

Dear Representative Cotton:

Please find enclosed Koniag, Inc.'s position paper regarding the opening of the ANWR and land exchanges for submission into the record of State Senate hearing, reference HJR 7, HJR 9.

Sincerely,

KONIAG, INC.

U. L. Gross

Uwe L. Gross
Executive Vice President & CEO

ULG/dh

Anglo Energy Building • 4300 B Street, Suite 407 • Anchorage, Alaska 99503 • (907) 561-2668 • Telecopier: 562-5258

As presented to Gov. S. Cowper on 2/10/87.

KONIAG/USA LAND EXCHANGE

BRIEFING PAPER

BACKGROUND

Pursuant to the provisions of ANCSA, in excess of 300,000 acres of Kodiak National Wildlife Refuge lands were conveyed to certain Village Corporations. These lands constituted the heart of the Kodiak refuge, encompassing all of the Karluk River Valley, the Sturgeon River and Red River valleys, and most of the uplands around Karluk Lake. The lands are the most valuable lands in the refuge for brown bear habitat as well as providing critical salmon habitat. In addition, the lands provide some of the best sports fishing and hunting opportunities in the State. However, because of their status as private lands, the level of control which can be exercised by the Fish and Wildlife Service over them is severely limited. Like most ANCSA lands, title to the lands cannot be acquired through condemnation by the United States for refuge purposes. Because of the lands high recreational value, the corporations owning them are subject to pressure to subdivide them for distribution to their shareholders.

In recognition of the importance of these lands, and the threat that private ownership of them poses to the integrity of the refuge, the Department of Interior has been very desirous of acquiring title to them. These efforts began in 1982 with the passage by the House of legislation providing for the acquisition of the lands by the United States. Because of internal considerations, Koniag subsequently withdrew its support of the legislation and it died in the Senate. After the conclusion of the "demerger" litigation, the new administration of Koniag in early 1985 reopened discussions with the Fish and Wildlife Service regarding its acquisition of approximately 125,000 acres of the land which Koniag owned. These negotiations were subsequently joined by Akhiok-Kaguyak Corporation and Old Harbor Native

Corporation which own approximately the balance of the Native inholdings in the Kodiak refuge.

Because of federal budgetary constraints, funds have not been available for the direct purchase of the inholdings. Discussions have thus focused on a land exchange for comparable values under ANILCA and ANCSA. However, after the passage of ANILCA, there are very few federal lands in Alaska available for exchange which have any potentially realizable value. Because of the 1002 process which was under way when the discussions began, Koniag suggested an exchange which would involve some type of interest in ANWR lands. For almost the past two years Koniag has been in continuing discussion with representatives of the Department of Interior exploring the circumstances under which such an exchange might occur.

EXCHANGE NEGOTIATIONS

At the present, there are five Native corporations or groups of Native corporations in addition to the State which are discussing the exchange possibilities. While the exact number of acres which may be exchanged has not been finalized yet, there are approximately 1,000,000 acres of Native inholdings involved. Any exchange which might occur would be conditioned upon two events occurring: the opening of ANWR to oil and gas development and production, and the Congressional ratification of the exchanges.

The exchanges are being structured as comparable value exchanges. Thus the participants would be able to acquire interests in ANWR which have a value comparable to the value of the lands which would be conveyed by them. The interests to be acquired in ANWR are being valued by BLM in the same manner as they would for a federal lease sale. In fact because of the lack of a retained royalty interest by the federal government (which interest would be retained in a lease sale) the value of the ANWR

tracts for exchange purposes will be greater than the amount normally established as a minimum bid amount.

In light of the use of this valuation mechanism, even if all of the Native lands proposed are exchanged, the impact on ANWR will be slight. Because of the high values of the ANWR tracts (each tract comprising 2,560 acres), the Native corporations will be fortunate if they are able to acquire in total 10 to 15 tracts or approximately 25,000 to 35,000 acres. From Koniag's discussions it is apparent that given the values involved, it will not be possible for the corporations to obtain the best tracts available (the better the tract, the greater its value). Such high value tracts would still be available for any lease sale which would be held. In fact, if one estimates the number of potentially prospective tracts from the Draft 1002 Report maps, there appears to be in excess of 400 tracts with potential. In other words, for 1,000,000 acres of lands to be traded by them, the Native interests might acquire only 25,000 to 35,000 acres of medium to good potential land out of the 1.3 million acres of coastal plain or less than 5% of all lands which might be prospectively valuable for oil and gas production. If the parties are able to reach agreement as to the major issues in the exchange, it is anticipated that an identification process for tracts would be undertaken about the third week in March. At that time the extent of the interests to be conveyed under any proposed exchange would be known.

Questions have been raised regarding the accuracy of the value estimates in light of the limited seismic data available. While the grid upon which the seismic was conducted is not very tight, it represents the only non-proprietary data available, and obviously until such time as all of the prospects have been drilled, all estimates of value will be just estimates. However, the data base available to Interior in arriving at its tract values is the same which is available to the state and to industry. It is the same data which industry will use to

determine its bids in any lease sale. The Native corporations involved in the exchange have no superior knowledge as to the prospectively valuable tracts. By in large they will be utilizing recommendations they have obtained resulting from their respective arrangements with industry. The State, in fact, is in a better position than the corporations since it has access to the seismic data from the 1002 study without having to have entered into a pre-selection lease arrangement. While a well has been drilled on Arctic Slope Regional Corporation lands, Arctic Slope is not a participant in any of the pending exchanges.

As your staff has no doubt advised you, the interest to be acquired in ANWR is not an interest in the surface estate but rather a limited right to extract oil and gas for a fixed period of time. In reality, what Interior is proposing to convey, closely resembles a leasehold interest except that there is no royalty burden. All surface activities will be closely regulated to prevent any unnecessary adverse effects to the environment. The Native interests will be subject to the same environmental standards as the federal lessees. All gravel will continue to be owned by the United States and the holders of the inholdings will merely have the right to purchase it at fair market value. Access will also be closely regulated as the result of the agreed upon waiver of Title IX rights for inholders. Interior has already indicated that in addition to the foregoing, the corporations will probably not be allowed to make selections in particularly environmentally sensitive areas such as the calving grounds, although the areas available for selection will not be defined until after the comments on the 1002 Report have been reviewed.

Finally, any development which may occur on any of the tracts subject to a Native interest would be subject to all applicable state and federal laws and regulations.

STATE'S CONCERNS

As Koniag presently understands the position of the State, it has several basic concerns: first, that ANWR be opened for further exploration, development and production of oil and gas; second, that the State's 90% share of revenues not be diminished; third, that because ANWR is a federally established refuge, that it not be parceled out; and fourth, that the State has an opportunity to participate in development both as a potential party to an exchange and as a sovereign.

It is Koniag's understanding that the exchanges will be a positive factor in opening ANWR. The possibility of the acquisition of a million acres of valuable refuge inholdings as the result of the opening of ANWR should assist the State's efforts to secure the opening of ANWR.

With respect to the State's right to share in revenues, Koniag has advised both the Department and John Katz that this is an issue between the State and the United States. Koniag's only concern is that it not be required to pay for 100% of the value of a tract only to find its interest encumbered. If the State is to receive a share of the royalties from the interests conveyed to Koniag then that fact should be reflected in the value that Koniag is to be charged for the tract. As citizens of the State, we recognize the difficult financial position of the State, and we recognize the desire of the State to retain as much of the ninety percent as possible. We also recognize the difficulty of the task given that other states only receive 50% at best and that the public perception of Alaska because of the permanent fund distributions is that there is no justification for Alaska to receive a greater share of such revenues than any other state. It would appear that the State's argument for 90% of the revenues from non-exchanged lands is stronger if the exchanges are consummated since the State could argue that because of the exchanges it takes a greater percentage of the revenue from the

remaining lands (even though their magnitude is greater) to make up for the value lost in the exchanges. This position would allow the State to reap the benefit to the opening of ANWR to be derived from the exchanges while at the same time justifying why a different treatment should be accorded Alaska with respect to the sharing formula. As has been pointed out, because of the small number of tracts involved, the effect of the exchanges on the State's revenues should be minimal.

Koniag does not believe that the interest to be conveyed by the exchanges would constitute a "parceling up" of the Refuge any more than a lease sale would have the same results. Given the nature of the interest to be acquired, the surface remains in the ownership and control of the United States. An exchange participant will have no greater right to use the surface than a federal oil and gas lessee would and in fact its rights to use the surface will be regulated in the same manner as a lessee's use will be. In both cases the interest acquired will terminate after a fixed period of years or the conclusion of production whichever is longer. The problem does not appaar to be one of substance but rather of perception and we would welcome any suggestions as to what can be done to have the perception reflective of the substance. We would respectfully submit that because Congress has the ultimate responsibility to approve the exchanges, if Congress is concerned then it will simply not approve the exchanges or modify them to meet the national needs.

It is also Koniag's understanding that the Department of Interior has sought to address the State's concerns about being afforded an opportunity to participate in the exchanges as a participant. We understand that the prior administration had engaged in discussions with Fish and Wildlife Service as early as January, 1986 and most recently has been involved in the negotiations of exchange documents. We understand that the Fish and Wildlife Service has not shown much enthusiasm for some of the land being sought to be exchanged by the State which are not

inholdings in refuges. This lack of enthusiasm is consistent with that shown for any non-refuge lands. Interior has repeatedly advised us that for the initial exchanges it would be interested in acquiring only key inholdings in existing refuges. This is also consistent with the Department's position that since the interests to be conveyed by the United States are in a refuge, the Department wanted first to acquire other lands for refuge purposes. However, we have also been advised that the Department had not closed the door to park lands, only that it sought to first accommodate its refuge needs.

Koniag also recognizes the concerns that the State has regarding its right to influence and regulate development in ANWR. It is our belief that the proposed agreements and stipulations recognize the role of State law and regulation in the development process. It is apparent that development in ANWR will occur only under circumstances which minimize the environmental effects of such development. Because the Stipulations governing operations on the tracts to be acquired are expressly subject to regulations which may be adopted in the future and as the State and the federal governments further develop and coordinate their regulatory processes, the operations on such acquired tracts will be subject to the product of that coordination.

ADVANTAGES OF EXCHANGES

The exchanges will provide Congress with a unique opportunity to acquire approximately a million acres of critical inholdings in existing refuges. Much of the lands being acquired, as in the case of the Kodiak refuge represents the heart of the habitat, which without public ownership threaten the vitality of the refuge. By returning them to public ownership, these lands will be available for use by the general public for recreation, sports fishing and hunting activities. In a broader sense, the exchanges provide an opportunity on a state-wide basis to mitigate the impact of development in ANWR. Rather than being

compensated for the environmental impacts solely by the value of the oil and gas produced which give rise to the impacts, the exchanges provide a mechanism to strengthen other refuges as well. The opening of ANWR which would normally be viewed only in terms of its environmental costs, now offers some environmental benefits to the refuge system as a whole.

Because of the possibility for activities on the exchange tracts in advance of a lease sale and the requirement that the data so generated be provided to the Department, the exchanges provide an opportunity for more information to be acquired at no direct cost to the government. This information will be used to further refine BLM's data base and will directly impact the valuation process for a lease sale. Thus, the lease sale should carry higher minimum bids than without the information and bidding should be more vigorous because of the enhanced competitive position of industry.

On the Alaska scene, such early operations should provide an immediate stimulus to the economy. Exploratory activities will result in more expenditures in the State sooner. Rather than waiting until a lease sale to be held four years after legislation, the State will see immediate effects from the legislation through the operations conducted on the exchanged tracts.

BNC
BETHEL NATIVE CORP
BOX 719
BETHEL, ALASKA 99559

February 4, 1987

Representatives Sam Cotton and
Adelheid Herrmann, Co-chairmen
House Resources Committee
Juneau, Ak 99811

RE: House Joint Resolution No. 9

Dear Chairmen Cotton and Herrmann:

We would appreciate it if the following testimony could be incorporated into the public record of the hearings on House Joint Resolution No. 9.

The Bethel Native Corporation, representing 1,750 Bethel area shareholders and their families, supports the use of the coastal plain of the arctic National Wildlife Refuge for oil and gas exploration, development and production in an ecologically and environmentally safe and orderly manner. We feel that the State of Alaska's environmental protection agencies working in conjunction with the oil industries have the ability and technical expertise to develop and produce oil and gas in a sensitive environment.

We will not attempt to repeat all of the economic and state and national security reasons supporting the development of ANWR in this testimony as you have received ample input in these areas from experts in their fields. Instead we would like to focus on the land exchange issue addressed in the Resolution; specifically, numbered paragraphs (2) and (3) and in the paragraph beginning "Further Resolved..."

So that the record is clear let me state that we are reviewing one of the exchange proposals. However, no decision has been made on whether or not we will participate in such an exchange or to what extent we may participate. But leaving aside the obvious self interest we have we feel that there is a larger issue which is not being addressed.

Granted the proposed land exchanges would be "inimical" to the revenues of the government of the State of Alaska. But we take exception to the assumption that the land exchanges and the resulting reduction in state government revenues would be inimical to the interests of the State. The State of Alaska is more than just its government and we would respectfully suggest that the State's interests might best be served through the land exchanges.

For the past several months the Alaskan public has been bombarded with rhetoric regarding the need for economic development and the development of a diversified economic base. Indeed, we elected a Governor whose major thrust was "let private industry do it." We agree that a diversified stable

economy is the long term key to the economic well being of this State. To achieve that goal someone must provide the capital. Over the past few years the State has provided an enormous amount of capital for infrastructure development which will help support the development of a diversified economy. Now it is time for the private sector to step in and actually establish the diversified economy. And who better to do it than the Native Corporations with capital or revenues that may not be realized by anyone unless all of us in Alaska present a united front?

One of the reasons that Congress gave land to ANSCA Corporations was for development purposes. If DNO chooses to participate in the proposed land exchange (and that is not a given) we will be giving up prime habitat land within another wildlife refuge. If we were to move to develop that land I am absolutely sure that the State of Alaska, USF&WS, and a plethora of environmental groups would all move very rapidly to try to stop that development. I suggest that exchanging this land for developable land elsewhere is not only beneficial to the State of Alaska (and its government) but also has quantifiable benefits to the public outside the State.

In the strongest possible words I urge you to take a long range view for the sake of the State's economic well being. You have all seen the bumper sticker or tee shirt that says, "Please God, give us another pipeline and this time we promise not to p... (throw) it away." Haven't any of you learned the lesson that oil revenues are short term revenues? You have in front of you a golden opportunity to invest in the future through a transfer of unrealized funds. Not only would you be directly investing in the economy of Alaska but you would be investing in the environmental and ecological future of Alaska by improving existing parks and wildlife refuges.

It is recognized that only a relatively small number of private corporations are in a position to benefit directly by the land exchanges but they are in that position exactly because Congress intended that they have the means to take advantages of just this type of opportunity. But absolute numbers are not necessarily relevant in this instance. You need to look at who the corporations are and where they are located and what they would do with the investment capital. These are corporations that are scattered across the breadth of Alaska often times in communities with chronic unemployment and underemployment along with the social ills that go along with those conditions. Where would these corporations invest their money? Look at the commitment to Alaska of these corporations. Because of ties to the land and because of cultural ties, etc. these corporations are in Alaska for the long haul for better or worse and are highly unlikely to take their profits and run to the lower 48 or elsewhere. To a large extent these corporations have had their baptism of fire and are now sophisticated enough to be able to utilize an influx of capital. Look at the variety of businesses

these corporations are all ready involved in and just think of the diversity of business that would be available if they had access to additional capital.

Using BNC as an example, we have been profitable for the past two years and there is no reason for that to change even in the down economy. On my "projects" list are 12 different investment opportunities that I have identified which need only capital to bring to fruition. Some of the projects might drop out during the investigation phase but other projects would come up to replace the dropouts. They are just about evenly split between retail trade, services, tourist oriented projects and manufacturing. Every single one of them is in Bethel. Every single one of them is oriented towards utilizing local labor. I know a number of other people in other corporations and I am absolutely positive that they have similar ideas and plans.

Just for a moment be visionary. Think of the impact that 12 or 15 corporations (or more) scattered across Alaska would have on the economy. Think of the welfare and unemployment not paid. Think of the potential for reducing Alaska's social problems and their associated costs. Think of the long term taxes the corporations will be paying, not to mention the long term property and income taxes which the employed tend to pay.

Take a long hard look at what you are doing and ask yourselves if there might not be ulterior motives for opposing these land exchanges. If you oppose the land exchanges based solely on reduced revenues to the State government then you are so short sighted that you will never be able to move Alaska toward a stable economy.

Two more points then I'll quit. First, because the land exchanges are based on value and not acreage I think you will find that the adverse impact on the total State revenues won't be that great. The Government of the State of Alaska will still be receiving the lion's share of the revenues.

Second, the assumption has been that the Native Corporations will make a great deal of money with out any risk on these land exchanges. In fact, there is no written guarantee that any of the corporations will make a dime. The vagaries of oil exploration and development being what they are there is a high probability that the exchanges will be worthless. In that case the public will have benefited at the expense of the corporations through the enhancement of the various parks and refuges. There is very real risks for the involved corporations and these risks are not taken lightly.

Sincerely yours,

William C. Bivin
General Manager

file HJR 9

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February 23, 1987

Representative Sam Cotten
House Natural Resources Committee, Co-Chairman
Pouch V
Juneau, Alaska 99811

Re: Koniag ANWR Exchange

Dear Representative Cotten:

On behalf of Koniag, Uwe Gross and myself, I want to express our appreciation for the time you took to meet with us last Wednesday to discuss the pending negotiations between Koniag and the Department of Interior regarding a possible land exchange involving interests in ANWR. We also appreciated the opportunity to have Art Kennedy testify before your Committee last Friday.

Koniag believes that this dialogue will help to dispel the erroneous rumors which appear to be circulating about the nature of these possible exchanges. Once the exchanges have reached a point that their terms have been agreed to and the extent of their limited impact on ANWR lands is known, we are hopeful that you will agree with us that they provide a real benefit to the State of Alaska.

Mr. Kennedy has communicated to Koniag the Committee's inquiry regarding the identity of the oil company with whom Koniag may have an arrangement. As we indicated to you when we met on Friday, at this time Koniag is bound by a confidentiality agreement with respect to its arrangement with the oil company with whom it is dealing. We regret that we are not at liberty to discuss the matter further.

If you should have any further questions please feel free to contact us.

Yours truly,

William H. Timme

William H. Timme

WHT:mb
cc: Uwe Gross, CEO Koniag, Inc.

BRADBURY, BLISS & RIORDAN

JOHN H. BRADBURY **
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February 17, 1987

Representative Sam Cotten
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, AK 99811

Re: Akhiok-Kaguyak, Inc. Land Exchange
Our File No. 438-1

Dear Representative Cotten:

I am the General Manager of Akhiok-Kaguyak, Incorporated ("AKI"), an Alaskan Native Corporation formed under the Alaska Native Claims Settlement Act ("ANCSA"). AKI is presently engaged in the negotiation with the Department of Interior ("DOI") for the exchange of certain of AKI's surface land located in the Kodiak National Wildlife Refuge ("KNWR") for subsurface acreage in the Arctic National Wildlife Refuge ("ANWR").

This letter is written to explain the present status of the exchange negotiations and to set forth our view as to why the State of Alaska should fully support the contemplated exchanges.

I. Introduction

It is in the highest national, state and general public interest for Congress to approve the opening of ANWR for

exploration and development with appropriate environmental safeguards. The proposed exchange of highly valued native land inholdings with federal national refuges for federal lands within Section 1002(h) of the Alaska National Interest Lands Conservation Act ("ANILCA") study area presents a significant opportunity for economic benefit to the State of Alaska and to the Alaskan native community, for the consolidation of valuable refuge land now held in private hands into the national refuge system, and for the development of a consensus necessary to open ANWR to oil and gas exploration and development.

It is important that the State of Alaska and its Congressional Delegation are fully apprised of the nature of this opportunity and how critical it is that they presently join in efforts to ensure that this opportunity is not lost.

II. Explanation of the Exchange Process

Five native corporations, including AKI, Doyon, Cook Inlet, Koniag and Old Harbor, as well as the State of Alaska, have become involved at various times over the last 18 months in an exchange process contemplated under Section 22(f) of ANCSA and Section 1302(a) of ANILCA. Section 22(f) of ANCSA provides general authority for exchanging federal lands for native-selected or municipal-selected lands "for the purpose of effecting land consolidation or to facilitate the management or development of the land, or for other public purposes." Section 1302(a) of ANILCA specifically authorizes the Secretary of Interior to carry out exchanges for the purposes of acquiring lands "within the boundaries of any conservation system unit other than National Forest Wilderness." The lands offered for exchange by the native corporations all fall within the definition of "conservation system unit" as defined by Section 102(4) of ANILCA. Their inholdings are within the National Wildlife Refuge System in Alaska. Lands offered by the Department of Interior in exchange for these refuge lands are offered consistent with the purposes of both ANCSA and ANILCA.

Thus far in the exchange process, much time has been spent in attempting to arrive at correlative land values for purposes of exchanging lands. Though there is provision for the exchange of lands on a basis other than "equal value," the negotiations carried out to date have presumed the use of the "equal value" for "equal value" standard. In addition, the various native corporations involved have negotiated agreements with oil companies to explore and potentially develop the ANWR lands conveyed

to them as a part of the exchange. Revenues received from the oil companies acting as lessees in relationship to the native corporations is the source of economic benefit derived from the exchange.

The negotiations which have taken place between native corporations and oil companies have been conducted on an arms-length basis. As such, the native corporations involved have received no benefit of geological or geophysical interpretations from the oil companies. In that regard, all parties involved in the land exchange, including the State of Alaska, if it chooses to continue to participate, stand on an equal footing. The one factor which distinguishes all parties is the relative valuation given their lands compared to the value of ANWR lands for which they would be exchanged. Not all parties will benefit equally, both in terms of acreage totals and in terms of relative prospectiveness of the tracts offered for exchange. However, no one is in a predominant position to know to a high degree of certainty which of the tracts in ANWR are the most valuable.

The first stage in the exchange process is nomination of tracts for selection. Following this, DOI will administer a tract identification process whereby through rounds of selections the available tracts will be distributed until the acreage credits of each participant run out. Using this formula, it is virtually certain that each participant will receive at least one tract, with a possibility for more, depending upon the relative value of the lands which they are exchanging.

After the selections have been made and all parties have determined the satisfaction with the results, they will wait for congressional approval of the opening of ANWR and separate congressional approval of the exchanges made under this procedure.

III. The Exchanges Are Necessary in Order to Open ANWR to Oil and Gas Exploration and Development.

The State of Alaska will benefit economically only if the U.S. Congress authorizes the opening of ANWR to oil and gas exploration and development. Because of the national environmental interests in ANWR, a monumental battle can be expected before such oil and gas exploration and development will be allowed in ANWR. In order to garner sufficient support in the U.S. Congress, a broad-based coalition of interests must be formed. The coalition must include, in addition to the State of Alaska,

responsible members of the environmental community. Such responsible members of the environmental community are likely to support the opening of ANWR only if it is accomplished with a minimum environmental impact on ANWR and if the federal government can reacquire other key environmental resources in other refuges in Alaska. By reacquiring other key environmental resources in other refuges in Alaska, the federal government will consolidate its control and management of these refuges so as to preserve and protect in perpetuity these national interest lands. It is only by reacquiring these key resources and by regaining consolidated control and management over these resources that the nation is likely to fully support the opening of ANWR to oil and gas exploration and development.

As Alaskans, we cannot be shortsighted and must consider the problem from this national perspective. The contemplated exchange provides the essential component to gain the national support necessary to open ANWR. By gaining the national support necessary to open ANWR, all of Alaskans will economically benefit.

IV. All of Alaska Will Benefit From the Exchanges.

If the coalition of interests is able to obtain congressional support necessary to open ANWR to oil and gas exploration and development, all of the State of Alaska will benefit. Presently, the State of Alaska is a participant in the exchange negotiations. The State of Alaska is apparently attempting to exchange as much as 800,000 acres of its lands. At the present time, this would equate to approximately 40% of the total acreage of land being exchanged. By being a direct participant in the exchanges, the State of Alaska will receive the direct economic benefit derived from the land it is exchanging in this process.

All of Alaska will also receive benefit from the other participants involvement in the exchange. Clearly, what is good for the individual people of the State of Alaska is good for the state as a whole. The strengthening of the economy of private corporations in the state will recirculate throughout the Alaska economy. The benefits received by the participants will lead to diversification of the state economy, thus attracting new investments in Alaska. The State of Alaska will obtain the taxes charged for private development of these resources. The development of these resources will provide jobs for the people of Alaska. The development of these resources will likely occur

faster by private industry than it would by the state. Thus, the state as a whole will benefit from the exchange process.

Finally, the state will benefit from the impetus that the exchange will provide to the effort to open ANWR. The State of Alaska will benefit economically only if ANWR is opened to oil and gas exploration and development. Stated differently, 90% of zero equal zero. The exchange process will provide the essential component necessary to form the coalition of interests required to open ANWR. Further, ANWR is more likely opened if on a smaller scale with strict environmental controls. The exchange provides this mechanism for opening ANWR. The exchange contemplates the opening of only a small part of the Coastal Plain of ANWR, with strict environmental controls. The exchange will allow the opportunity to determine whether oil and gas is present in ANWR as indicated in DOI's Section 1002 report. Thus, the participants in the exchange will be the pioneers in this initial exploration effort. If the pioneering effort confirms that oil and gas is present, the exchange will provide the impetus to open all of the Coastal Plain to exploration and development. The State of Alaska will then receive all of the revenue from the entire remaining portion of ANWR from federal oil and gas leases.

V. Conclusion.

The State of Alaska must be politically realistic in its expectation to open ANWR to oil and gas exploration and production. From a national perspective, the exchange process provides the necessary element to form the coalition required to open the Coastal Plain of ANWR. Once ANWR is opened to oil and gas exploration and development, all of the State of Alaska will benefit from the exchange. The state is a direct participant in the exchange process and will be the beneficiary of all revenues received from such participation. The state will receive the economic benefit received because of involvement of the state's private industry in the exchange process. The state will receive severance taxes from the development of this land by private industry. The exchange will lead to new job opportunities for all Alaskans. The development of this land by private industry will likely occur faster than by the state. Finally, the exchange will provide the impetus for opening all of the Coastal Plain to oil and gas development, thus leading to full development and the consequential state revenue obtained from federal oil and gas leases.

For these reasons, we respectfully request that you consider the economic benefits which will be received by the State of Alaska from the contemplated exchange process, and that you lend your full support to the exchange process.

Regards,

Akhiok-Kaguyak, Inc.

James K Walter for

Ralph Eluska

RE/JKW/cl/44
438-1

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
4881 HRES ANWR LAND TRADES: DOI, ANCSA, STATE 4/53

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May 14, 1987

via FACSIMILE

Representative Adelheid Herrmann
Representative Sam Cotton
Representative John Sund
Representative Mike Navarre
Representative Cliff Davidson
Representative Drue Pearce
Representative Henry Springer
Representative Lynn Hoffman
Representative Richard Shultz
House Resource Committee
Pouch V
Juneau, Alaska 99811

Dear Ladies & Gentlemen:

On behalf of Akhiok-Kaguyak, Inc., we request your support of State House Resolution SJR-7, as it was passed by the State Senate last week. As Senator Frank Murkowski apply pointed out in his recent editorial opinion published in the Anchorage Times, it is of the utmost importance that the State of Alaska be united in its effort to obtain the opening of the Coastal Plain of the Arctic National Wildlife Refuge for oil and gas exploration and development. Conversely; divided, Alaska will fail.

SJR-7 represents a fair effort to address a broad array of Alaskan concerns and should form the catalyst for obtaining the necessary united support. Since the U.S. Congress may well act before the State Legislature meets again next year, we

respectfully request your committee to act expeditiously in sending SJR-7 to the floor of the State House for consideration.

AKHIOK-KAGUYAK, INC.

By Ralph Eluska
Ralph Eluska, CEO

RE/JKW:jlw
438-1

EXPLANATION FOR PRUDHOE BAY ANALOGY

1. The Division of Oil and Gas would not make any projections of the fiscal impact from ANWR exchanges simply because there are insufficient data to calculate reserves and, hence, future revenues so they looked at Prudhoe Bay as if it had been owned by the Department of the Interior and traded to Native Corporations.

2. Picked Prudhoe Bay because it has been suggested by many that ANWR could produce a Prudhoe Bay size field.

3. Not scientific, not ANWR, merely a way of showing possible impact of trades on State revenues.

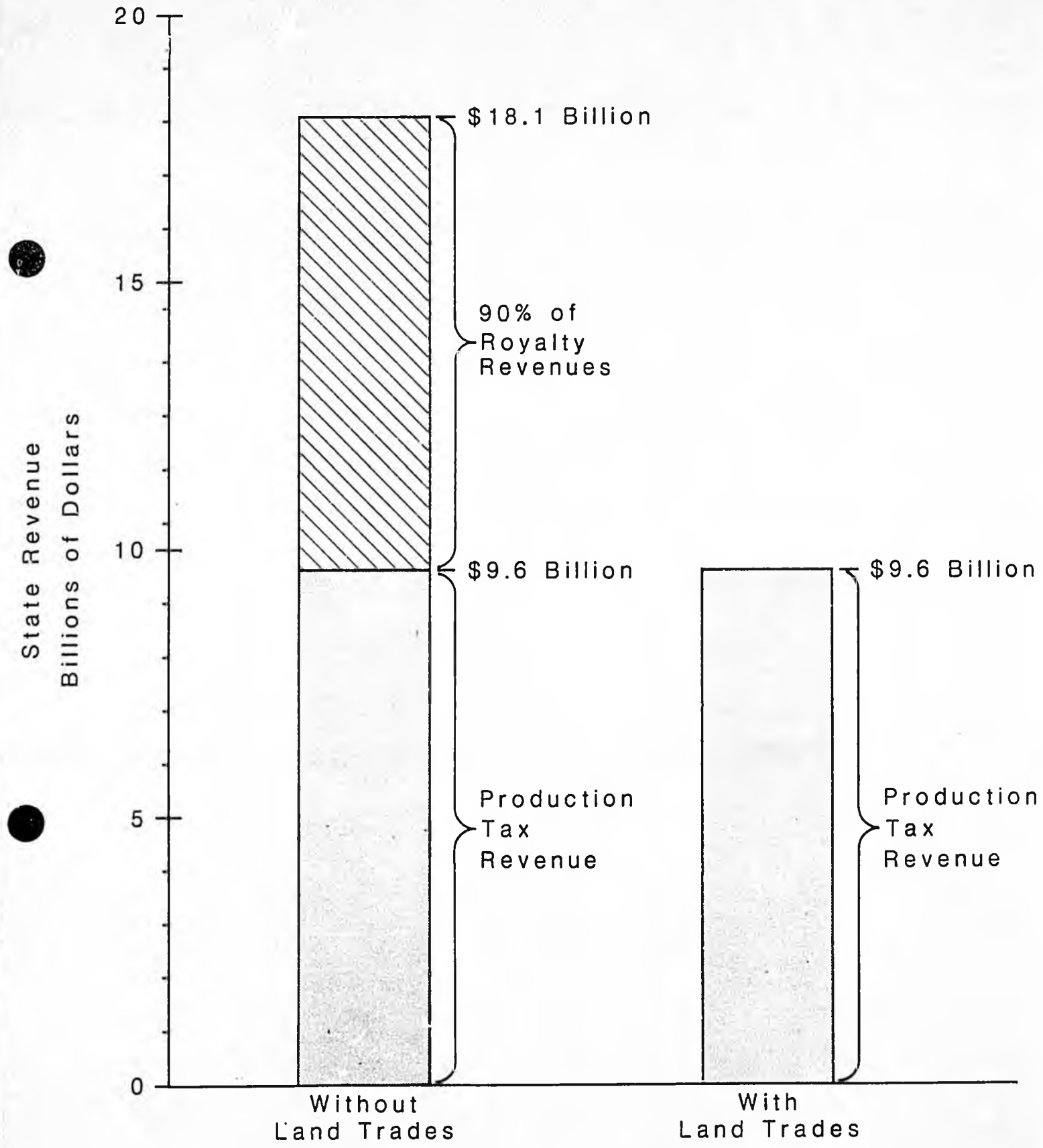
4. Bonus revenue, corporate income taxes, and property taxes were not included in the numbers on the chart.

5. Prudhoe Bay numbers are as follow:

Royalty.....	9.5 billon dollars
90% of Royalty.....	8.55 billon dollars
Production Tax.....	9.6 billion dollars
Property Tax.....	1.1 billion dollars
Corporate Income Tax.....	About 800 million

6. Note that 543.8 million dollars have already been negotiated in ANWR "bonuses" and "future royalties". We cannot estimate the real value of the bonuses and royalties that would be foregone if the land trades go through. More importantly, neither can the Department of the Interior.

Potential Revenue Impact of ANWR Land Exchanges: A Prudhoe Bay Analogy



Prudhoe Bay Field - First 10 Years of Production
(5.5 Billion Barrels Produced)

STATE ANWR CHRON 2/88

ANWR Exchange Chronology *

1980 - 1983	Legislation is introduced in Congress which provides for the acquisition of about 300,000 acres of refuge lands on Kodiak Island by the U.S. Government. In return, Koniag, Inc. would receive "OCS Bid Credits", in an amount equal to the value of these lands, to be accepted by DOI in payment of lease bonuses and other amounts due under federal leases of oil and gas interests. In 1983 the Koniag Board of Directors withdrew its support of this legislation and it was subsequently dropped by the Senate after having passed the House of Representatives.
August 9,1983	Recommendation by then Deputy Under Secretary Bill Horn for Secretary of the Interior James Watt to adopt the Chandler Lake exchange agreement between ASRC and the United States. Adoption and execution of the agreement by Secretary Watt and ASRC.
1984 - 1985	Koniag broaches subject of possible ANWR land trades with former USFWS Regional Directors Keith Schreiner and Bob Putz. Informal discussions then ensue with Alaska's congressional delegation and DOI's Bill Horn.
Fall, 1985	USFWS appraisers appear in DNR's Anchorage office and ask for state comparable information on recent large land sales. At no time do they mention a possible ANWR land trade.
October, 1985	DNR completes initial geological and geophysical evaluation of the ANWR coastal plain. The data used and the resultant analysis are confidential.
November, 1985	Governor Sheffield is approached by Bill Horn concerning possible state participation in ANWR land trades.

* NOTE: As compiled from Division of Oil and Gas records. This chronology is not complete because of the limited records available.

December 3, 1985	John Katz informs the Alaska Congressional delegation that DOI has commenced ANWR land exchange discussions with various Native corporations. The state has not been consulted by DOI, nor has the state developed a position on the wisdom of the trades.
December, 1985	DNR, over a two-week period, completes a Resource Appraisal Simulation for Petroleum (RASP) study of the ANWR coastal plain, that assesses the hydrocarbon potential of the area. Through an agreement with DOI, results of this study are to be kept confidential until DOI presents the report of their findings to Congress.
January, 1986	Governor Sheffield requests DNR to initiate the state's participation in trade negotiations in order to find out the details of exactly what is being proposed. It is hoped that this information will allow the state to decide if the trades are in in the best interest of all Alaskans.
January 21, 1986	Dick Mylius of DLWM provides DLWM Director Tom Hawkins with a memorandum which identifies approximately 12 million acres of state land identified by ADF&G which might be used for trade. These lands have habitat attributes which should be of interest to USFWS.
January, 1986	Tom Hawkins meets with Bob Gilmore of USFWS to discuss ANWR trade prospects. Gilmore provides only superficial information regarding Native trades but agrees to consider a formal state trade proposal.
February 5, 1986	Tom Hawkins meets again with Bob Gilmore and delivers a letter which asks for more information regarding the details of Native trade discussions and offers the 12 million acre pool of candidate state exchange land for USFWS consideration.
February, 1986	Anchorage Daily News article reporting that the State has proposed trading some 12 million acres of land to obtain subsurface rights in ANWR.
February 17, 1986	Governor Sheffield writes the commissioners of DNR, DEC, DF&G, Commerce, Revenue, as well

as Bob Grogan (OMB/DGC), Hal Brown (AGO) and John Katz to assign numerous issue analysis tasks related to ANWR. DNR is to monitor the progress of the exchanges, ascertain the desireablilty and opportunities for exchanging state lands.

February 17, 1986 — Governor Sheffield writes DOI Secretary Hodel to request imformation related to ongoing trade discussions between DOI and Native Corporations and to express the state's interest in the ongoing trade negotiations. He specifies that, as a sovereign state, Alaska should be consulted and meaningfully involved in any trade deliberations.

March 12, 1986 — Gilmore replies to Hawkins letter of February 5, 1986, and states that the majority of the state lands are simply not a priority for acquisition. Only the land in the Tetlin NWR is identified as a high USFWS acquisition priority. Gilmore suggests that adequate protection for some areas might be achieved through cooperative management agreements. Gilmore makes no reference to the proposed Native trades.

April 2, 1986 — DOI Assistant Secretary Bill Horn responds to the Governor's February 17 letter to Secretary Hodel. Horn says that the trade negotiations with Native corporations are still very preliminary and that DOI has reached no tentative agreements, including a decision on whether an exchange proposal will be forwarded to Congress. He assures the state that "should this effort progress beyond the speculative stage, the State of Alaska will be kept informed of further developments and be welcome to participate in any exchange negotiations..."

May 16, 1986 — Tom Hawkins sends detailed ANWR land exchange memo to Bob Arnold, DNR Deputy Commissioner. The memo describes the land exchange progress and concludes that the USFWS response to the state's trade proposal calls for further state action.

July 8, 1986 — Bob Grogan issues a memo which outlines state policy regarding management of ANWR. Attached is executive support material for the policy. The policy includes the

statement that "the DOI has assured us that the state will be kept apprised of any proposed land exchange under consideration and will be consulted before any final decision is made." The summary says the state will continue discussions with USFWS concerning the state's land exchange proposal.

August 15, 1986 — Letter from Senate Committee on Energy and Natural Resources to Secretary Hodel, signed by eleven committee members, urging him to suspend the ANWR land exchange negotiations until Congress decides the future management of the area.

September 11, 1986 — Tom Hawkins and Gary Gustafson brief the House Special Committee on Oil and Gas on the ANWR land trades. They report the tepid response from USFWS. The meeting is reported in the Anchorage Daily News the next day.

September 26, 1986 — Representative Don Clocksin requests a briefing on the specifics of the ANWR land trades from Commissioner Wunnicke.

October, 1986 — Commissioner Wunnicke discusses the land trades in Washington, D.C. with Bill Horn. Horn seems interested in state participation in the exchange and assures John Katz and the commissioner that DOI will keep the state advised of the Native trade efforts.

October 30, 1986 — Commissioner Wunnicke and staff brief representative Clocksin and others on the state involvement in the land trades, the USFWS' reluctance to accept the state's proposed trade acreage, and the state's intention to continue the trade efforts.

November 4, 1986 — Gary Gustafson meets with Margie Sagerser, Mike Smith and Mark Rindner of the Native Land Group, a CIRI sponsored ANWR exchange participant. He learns the exchange proposal is much further advanced than previously thought. Draft exchange documents have been distributed, and an ANWR tract selection process is contemplated within several months. For the first time the state learns the identity of all the Native corporation participants and that a DOI ANWR exchange team has been assembled.

November 12, 1986 — Memo from Gustafson to Commissioner Wunnicke outlining the status of the exchange negotiations and recommending creation of an ANWR exchange team. The general methodology DOI intends to use for awarding the ANWR tracts and a suggested timeframe are discussed.

November 14, 1986 — John Doebel (USFWS), in a meeting with Gustafson and Sharmin Piper (Representative Cotton's office), provides some details on the status of the Native trades but stresses that the exchanges are still considered speculative.

November 14, 1986 — Hawkins again writes to Bob Gilmore to renew the trade discussions, proposing to include all lands of interest to USFWS and indicating the state's willingness to consider trading lands of interest to other federal agencies such as the National Park Service. Hawkins says the state is ready to draft a preliminary exchange agreement as a first step towards negotiations, and requests an update on negotiations with the Native corporations. No response has been received to this letter.

November 1[illegible], 1986 — Commissioner Wunnicke sends an ANWR Trade Issues Paper to Governor Sheffield. She describes the lack of interest on the part of USFWS in trading for state lands and efforts of the Native corporations to accelerate the trades.

November 17, 1986 — Hawkins meets with Bob Gilmore and John Doebel while delivering his letter to Gilmore. They reconfirm that Native land trades are still in a very preliminary stage and that they will reexamine the state's trade proposal.

November 19, 1986 — Commissioner Wunnicke again provides Governor Sheffield with an update on the ANWR trades. She states that the staff continue to advance a trade package, but USFWS finds it difficult to justify acquisition of certain lands because they feel the state already provides a sufficient level of protection. She relates that USFWS has no interest in giving up ANWR land to benefit the NPS. Governor-elect Cowper receives a copy of the memo.

November 24, 1986 — Memo from DNR Commissioner Wunnicke to the directors of DMGGS and DO&G, requesting a detailed hydrocarbon resource assessment of recoverable reserves and an economic evaluation on a tract specific basis of the estimated resources in ANWR for the purpose of evaluating potential land exchange.

December 1, 1986 — Tom Hawkins, Gary Gustafson, Norm Cohen (ADF&G) and staff from John Katz' office participate in the DOI sponsored ANWR land exchange negotiations in Washington, D.C. The state first learns the details and timing of the proposed trades.

December, 1986 — Additional ANWR briefings are provided to the Governor, his staff and others. The state continues to advance its' trade package by conducting appraisals of 1.45 million acres. The USFWS conceptually approves about 250,000 state acres for trade.

December 8, 1986 — Memo from directors James Eason (DO&G) and Laural Murphy (DMGGS) stating that there are insufficient data to accomplish a dollar valuation on individual ANWR tracts that would provide a reasonable degree of reliability. They recommend use of a ranking scheme which would use all the geologic and seismic data to high-grade and rank tracts according to their overall perceived potential.

December 17, 1986 — Memo from Eason and Hawkins to Lt Gov. McAlpine recommending that if the State decides "...to pursue exchanges, we will need to develop a position on the methodology to be used in evaluating exchange options and the timing of tract selections." The underlying theme of this memo is that the state's interests must be protected.

December 29, 1986 — Letter to Sharon Allender (Lawyer for DOI) from Eric Laschever (Assoc. Dir. for Fisheries and the Environment in the Governor's D.C. Office) within which he states that "...geophysical data available for ANWR are not sufficient to enable a reliable tract specific valuation for tracts of the dimension selected...", "The state has reservations over the Department's proposed process to enhance the fair market appraisal

value..." and "The state is concerned that participants in any exchange are expected to select tracts before it is known which tracts are available for leasing..."

January, 1987 — Gustafson goes to Washington, D.C. for second round of ANWR trade negotiations.

January 15, 1987 — State releases Professional Report 90, DNR's assessment of the hydrocarbon potential of the ANWR coastal plain as determined by using the Resource Appraisal Simulation for Petroleum (RASP) method.

February 1, 1987 — Gustafson goes to Washington, D.C. for trade negotiation meetings.

February 14, 1987 — Gustafson goes to washington, D.C. for additional trade negotiations.

February 13, 1987 — Sen. Murkowski, in a talk before the Alaska State Legislature, remarks that he will not embrace any particular land exchange unless it's in the State's best interest. At the same time he states that the State should be a part of these negotiations.

February, 1987 — Telegram to Cowper from Roy Huhndorf concerning State's position on the land exchanges. In referring to a communique from the Governor to CIRI on January 29, 1987, Mr. Huhndorf states that it is imperative that the State receive more information on the trades before issuing a policy statement, especially in opposition, and asking that the Governor wait until February 12, 1987 to make a policy decision, as the Alaska Federation of Natives Board of Directors meets in Juneau on the 11th, and will be considering a formal resolution for his consideration.

February, 1987 — Governor Cowper travels to Washington, D.C. to talk to congressional leaders about opening the ANWR coastal plain to responsible exploration and development.

February 27, 1987 — Governor Cowper directs the state's representatives to withdraw from the land exchange negotiations. Governor Cowper states that Alaska "...has participated in these land trade negotiations in good faith to determine whether it was possible to

structure the trades in a manner favorable to state and national interests." He is convinced that is not possible under the current circumstances, and claims the trades are premature, add a layer of complexity to the primary goal of opening ANWR and are not in the best interest of the broadest spectrum of Alaskans.

March 19, 1987 — Trustees for Alaska, the Northern Alaska Environmental Center and five other national environmental groups file a lawsuit against Secretary Horn and others. The lawsuit charges the defendants with violation of Section 102 of the National Environmental Policy Act (NEPA), ANILCA, the Wilderness Act and a number of other procedures by "actively pursuing exchange negotiations involving (ANWR) and committing federal personnel and financial resources before Congress decides whether to allow oil and gas development in that area; and by ...proceeding on an expedited basis without preparing an environmental impact statement." The plaintiffs ask for injunctions against any further trade negotiations until Congress enacts opening legislation. An opinion has not been rendered as of January 1, 1988.

April, 1987 — State responds to pro-trade lobbying efforts by initiating a series of discussions with the media and various resource and development groups in Anchorage. Commissioner Brady and DNR staff describe the problems with the timing and structure of the DOI trade proposals and discuss various alternatives that would alleviate these problems.

May 18, 1987 — Article in Inside Energy with Federal Lands reporting on opposition to the land exchanges by environmentalists, the State, and several congressional members.

June 4, 1987 — Governor Cowper testifies before U.S. Senate Energy Committee on ANWR. In addition to his testimony in support of oil and gas development within the coastal plain, he explains why the State chose to remove itself from the land trades negotiating table. Senator Bennett Johnson says he has independetly come to the same conclusions as

the Governor as to why land exchanges should not be pursued at this time.

July 11, 1987 — ANWR tract identification process held unannounced in a private suite in the Crystal City Gateway Marriott Hotel outside Washington, D.C. The final negotiated value of Native lands to be exchanged were arrived at through one-on-one meetings between Asst. Sec. Horn and a representative of each Native Corporation. No other DOI staff members were present, and no recording of these transactions took place. A journalist from the Wall Street Journal was denied entry to these procedures.

July 22, 1987 — Article in Anchorage Daily News reports Rep. Miller's concern over the exchanges as "...a cynical attempt to put pressure on the Congress to vote to open the area for oil exploration and production".

August 10, 1987 — Anchorage Daily News article published in which Lowenfels (attorney for Old Harbor) characterizes the land swaps as a "...wonderful money deal for Old Harbor." In this same article, John Doebel (associate Regional Director, USFWS) adds that such deals as Old Harbor's are "sweet" for Alaska Natives, and "They can have their cake and eat it, too."

October, 1987 — John Doebel and representatives from the Native corporations involved in the trades conduct private briefings for the staff of House Congressional members serving on committees overseeing the ANWR issues.

October, 1987 — Tommy Boggs is hired to lobby in Washington on behalf of the Native corporations in support of the land exchanges.Heavy lobbying efforts by Native corporations, industry partners, DOI and USFWS in Washington to get support for the ANWR land exchanges.

October 23, 1987 — Governor Cowper sends a letter to Secretary Hodel outlining the states' view of the proposed trades as adverse to public policy. Governor Cowper states, "the spectre of these trades continues to divert attention and hinder our mutual goal of opening ANWR...". Governor Cowper suggests alternatives to the

proposed trades and urges Secretary Hodel to take no further action at this time.

October 28, 1987 — DNR releases its critique of the land exchanges as an attachment to Governor Cowper's letter to Secretary Hodel.

November 13, 1987 — Letter from Rep. Cotton to Sen. Faiks asking the senate to reconsider the language in SJR 7, as passed last year, in which it endorsed the trades. Rep. Cotton strongly believes that "...the proposed land trades could do enormous violence to the general interests of the people of the State of Alaska".

November 16, 1987 — Native Corporations write letter to Sec. Hodel attacking DNR's released critique of the land exchanges, and offering their "Critique Of A Critique". At the same time this communique is released to the news media.

November 20, 1987 — DNR releases a response to the "Critique Of A Critique" pointing out a number of errors and misstatements contained in the document.

November 25, - December 12, 1987 — James Eason and Gary Gustafson, in conjunction with the staff of the Governor's Washington, D.C. office, presents the state's views on the proposed land exchanges to numerous members of Congress and their staffs over a two week period.

November 26, 1987 — Public Lands News article has DOI denying that every selection made overlies a structural trap. According to Susan Recce, deputy to Bill Horn, "...the majority of tracts selected by the natives were off structure and most of the tracts that were on structure would be available for leasing later."

November 30, 1987 — DNR releases Analysis of Valuation of Native Corporation Inholdings, specifying how land values were inflated through negotiation.

December 7, 1987 — Commissioner Brady and James Eason address the Interstate Oil Compact Commission (IOCC), a coalition of all the western energy-producing states. They present the state's position on ANWR, including the proposed land exchanges. The IOCC adopts resolutions in

	support of the ANWR opening and opposing the proposed exchanges. Governor Cowper is named Chairman-Elect of the IOCC.
December 31, 1987	During an address before the Fairbanks Chamber of Commerce, Sen. Stevens remarked he still believes land exchanges are in the State's best interest, but they should be placed on hold for the time being.
December, 10 1987	Government Accounting Office (GAO) staff, in response to a request by Representative George Miller, arrive in Anchorage and meet with state representatives to investigate the propriety of the 1983 ASRC ANWR exchanges, as well as the proposed exchanges.
December 11, 1987	Headline story in Anchorage Daily News reports contents of State's two critiques, stating that DOI undervalued ANWR lands and inflated the value of Native lands offered in exchange.
December 17, 1987	Anchorage Daily News story reporting the Native Corporation's side of the issue, stating that "The Cowper administration 'made a monumental mistake' last February when it pulled out of negotiations...".
December 20, 1987	Editorial in the Anchorage Times criticizes the State for not being a part of the land exchanges.
December 20, 1987	Commentary by Tim Bradner in the Anchorage Daily News attacking the State's stand on the land exchanges.
December 27, 1987	Editorial in Anchorage Times suggesting that the State heed Sen. Murkowski's advice and hush up about the land exchanges.
December 31, 1987	During an address before the Fairbanks Chamber of Commerce, Sen. Stevens remarked he still believes land exchanges are in the State's best interest, butthey should be placed on hold for the time being.
January 3, 1988	Forum article in Anchorage Daily News by Emil Christiansen stating the State made a mistake in failing to negotiate an exchange and is now trying to cover up that mistake by sabotaging the successful participants.

January 11-19,1988 — DNR staff brief Alaska state legislators in Juneau on the state's position on ANWR opening and the proposed land exchanges.

January 14, 1988 — Anchorage Daily News article points out that Sec. 22(g) of ANCSA may have been misconstrued by DOI during its valuation of Native in-holdings. Sec. 22(g) makes those refuge in-holdings subject to the laws and regulations governing the use and development of the refuge, and gives USFWS the right of first refusal in the event the land is ever sold.

January 22, 1988 — Excerpts from DOI "Budget Pass Back" Document issued by the Office of Management and Budget (OMB) to Secretary Hodel are published in the Wall Street Journal. The memo strongly criticizes DOI's land exchange initiative, stating "...this proposal is inconsistent with Presidential policy...", and "...the inholdings proposed for acquisition represent areas under no current threat of development or degradation and little expectations for future threats. As such, these inholdings would be considered to be low priority candidates for acquisition under any proposal." The memo directs DOI, due to the inconsistencies with existing administration policy, to "...cease all actions which... assert a willingness on the part of the Department to proceed with the ANWR land exchange process..." and "...develop a strategy of next steps necessary to back out of the land exchange proposal altogether." The memo requests a response from DOI by January 22, 1988.

January ? , 1988 — The OMB directive was issued to DOI three weeks prior to its release in the newspaper. It was kept quiet by DOI during which time OMB was apparently convinced to allow DOI to continue its land trade activities.

January, 1988 — In The CIRI Newsletter, Roy Huhndorf claims "Hundreds of millions of dollars will be lost to the State's economy if the current direction of the State is maintained. Worse yet, the opening of ANWR may be postponed indefinitely if the positive element of adding additional lands to the federal refuge system is not included". In the article he

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incorrectly states that if the land exchanges are approved Alaskans would be receiving 100% of the royalties from these tracts (emphasis added). However, only members of the Native Corporations involved in the trade would benefit, not all Alaskans.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF OIL AND GAS

STEVE COWPER, GOVERNOR

P.O. BOX 7034
ANCHORAGE, ALASKA 99510-7034

December 31, 1987

John Santori, Deputy State
Director for Minerals
Department of the Interior
Bureau of Land Management
Alaska State Office
P.O. Box 13
Anchorage, Alaska 99513

Dear Mr. Santori:

On behalf of the State of Alaska (State), I appreciate this opportunity to discuss the apparent differences between the State's and Interior's assessment of what can and what cannot be extrapolated from the geological and geophysical data which are currently available regarding the subsurface of the coastal plain of the Arctic National Wildlife Refuge (1002 Area). This letter first identifies what we believe are the areas of agreement and disagreement, then suggests how the issues should be resolved.

We think you will find that the BLM staff's geologic conclusions, as reported in the 1002 Report, support the State of Alaska's geologic conclusions. The one apparent exception concerns the analysis of how many of the tracts identified for the proposed trades overlie potential hydrocarbon-bearing structures. Yet, the 1002 Report, and conversations with your own staff, support the State's conclusions on that point. The major disagreements between the State and Interior focus on the policy choice to purport to extrapolate a "market value" of the entire oil and gas interest in particular tracts from the geologic data available to Interior.

Areas of Agreement and Disagreement

1. Adequacy of Resource Assessment.

The State of Alaska agrees that the Bureau of Land Management ("BLM") resource assessment methodology and conclusions as to the 1002 area are fully adequate to demonstrate the tremendous hydrocarbon potential of ANWR. It follows that the resource

assessment is also sufficient to allow Congress to make an informed geologic decision on the opening of ANWR to oil and gas exploration and development. The state's resource assessment, while not identical to BLM's, comes to the same general conclusions as to the prospectiveness of the 1002 area.

2. Adequacy of Tract Valuation.

This issue must be broken down into two parts: (1) adequacy for purposes of determining minimum bids where (a) there is a competitive bidding and (b) a royalty interest is reserved; and (2) adequacy for purposes of determining market value (a) for negotiated sale where (b) the entire oil and gas interest is sold. While we generally believe BLM's method is adequate for purposes of determining minimum acceptable bids at a competitive sale, we have some concerns that certain geological factors identified by BLM's own staff have not been considered in BLM's tract analysis to date. (See discussion in section 3 below). Of more immediate concern, however, is the state's conviction that Interior's tract valuation process is wholly inadequate for purposes of determining market value of entire oil and gas interests in individual tracts in noncompetitive sales. See, "Summary Of What The ANWR Data And The Resource Analysis Methodology Cannot Do." (attached).

3. Identification of Structural Traps.

While there seems to be some differences between the level of detail in the assessment of potential hydrocarbon-bearing structures in the Tertiary and Mesozoic trends of the 1002 area, it is clear that there is no dispute that these structures exist. BLM mapped 26 deep structures, but also mapped trends of structural culminations in the highly deformed Tertiary and Mesozoic rocks, and stated that within these trends there is a high probability for the occurrence of potential hydrocarbon trapping structures. Despite BLM's identification of these structures and structural trends, the State is concerned that these structural trends do not appear to have been considered when Interior set tract values for the proposed land trades. (Obviously, such structures should also be included when setting minimum bids in a competitive sale).

4. Summary of Agreements and Disagreements.

Our main area of disagreement with Interior is not with BLM's geologic assessment; it is with the policy-makers' inappropriate use of a resource assessment methodology to purport to make a tract by tract market value assessment. If the State has any

disagreement with the geologic assessment by BLM staff, it appears limited to BLM's possible failure to sufficiently pursue analysis of the Tertiary and Mesozoic structural trends which it has identified.

Proposal for the Resolution of the Issues.

My staff and I appreciate your offer to meet with us to discuss our apparent differences. As you suggest in your letter, it is our hope that we can determine those areas where we are in agreement and identify those areas where we have common goals.

As background for our meeting, however, I believe that it will be helpful for us to review the record, particularly the quotes attributed to Division of Oil and Gas representatives, as well as to certain Department of the Interior representatives, in the November 26, 1987 edition of Public Lands News. It is my understanding from subsequent conversations with Jim Hansen and Richard Kornbrath of my staff that it was in large part the contents of that article which prompted your letter. Since the article quotes only part of our conversation, I would like the opportunity to describe for you the context in which the comments were made.

First, we did not say that our maps were based only upon BLM's geophysical data, as is suggested in the Public Lands News article. I explained to the correspondent that the division's mapping and analysis relied upon those data, as well as upon confidential well and geophysical data from adjacent state uplands and submerged lands. It should have been clear to him, as it no doubt is to you, that we had access to data which were unavailable to you and your staff.

Similarly, you should be aware from the terms of the March 5, 1985 memorandum of understanding (MOU) that we cannot share confidential data or unabridged reports and maps based upon those data with BLM. Paragraph 5.2 of the MOU addresses Interior's access to oil and gas data from state and private lands which are required by state statute to be held confidential. It provides in pertinent part "...Nothing in this paragraph shall require DNR or any other Alaska state agency to disclose confidential data or information to Interior unless state law or the terms of permit or any agreement to which Alaska is a party permits such disclosure or a valid waiver of state confidentiality requirements has been obtained." None of these conditions for release to Interior have been met.

Notwithstanding our inability to share our confidential maps and their interpretations with you, I believe that we can still

have a meaningful review of the sources of our apparent disagreement. Hopefully, as an adjunct to our discussions, we also can clear up some of the inconsistencies between the positions expressed by your technical staff, who prepared the resource appraisals for the 1002 Report and the reported positions of the Interior officials who are quoted in the Public Lands News article.

I have enclosed for your review two maps prepared by the Division of Oil and Gas. These maps are based upon BLM data originally published in the 1002 Report, as well as the reported results of the tract selections which were conducted for the proposed ANWR exchanges. The first map is simply an overlay of the selected tracts on a base comprised of the 26 deep structures mapped by BLM for its resource evaluation. The map's legend provides a color-coded cross reference for each corporation and its respective industry partner(s). The second map provides the same basic information as the first, but displays that data on a base which portrays the distribution of structural trends within highly deformed Tertiary and Mesozoic rocks identified in the 1002 Report.

The geologic observations made by BLM in the 1002 Report are in apparent conflict with the comments attributed to Assistant Secretary Horn and his deputy, Ms. Recce, in the Public Lands News article. Thus, I believe our discussions should focus on this conflict. I am presuming, of course, that their comments were accurately recorded, but if not, it would also be helpful to establish that fact for the record.

I refer specifically to the comments attributed to Ms. Recce, "...if the state had taken the time to touch base with BLM, they would have found that the majority of the tracts selected by the natives were off structure and most of the tracts that were on structure would be available for leasing later." Assistant Secretary Horn was quoted as saying the State's assessment that every one of the 73 tracts selected by the corporations and their industry partners lies above a structural trap "is patently false as far as tract identification is concerned."

These comments cannot be reconciled with the patterns reflected in BLM's own maps, with the recognition in the 1002 Report of the potential for structural traps in the Tertiary and Mesozoic trends in the western coastal plain, with oral comments made by members of your own staff after reading Mr. Horn's and Ms. Recces's statements, and with the selection patterns reflected by the corporations' industry partners during the tract selection sessions. Most importantly, however, they do not comport with the results of

our confidential mapping -- all of which was concluded months before tract selection occurred. Fortunately you do not need our maps in order to see that the State's analysis is correct. Independent confirmation of our technical analysis is provided by your maps, your staff's conclusions expressed privately and in the 1002 Report, and the fact that industry would not commit money, or the attributed value of its corporation partner's surface lands, on tracts on which no structure is perceived.

In summary, I look forward to meeting with you and your staff to discuss our interpretations, as well as the data upon which the interpretations are based, to the extent allowed by state statutes and the terms of the MOU between the State of Alaska and the Department of the Interior. I do believe, however, that many of the apparent differences in our respective interpretations may be resolved beforehand by BLM's reconciliation of what appears to us to be fundamental differences of opinion between its technical staff and Interior policy staff in Washington, D.C. Any success which you may have in resolving those differences should make all our tasks easier, and should contribute measurably to the success of our meeting.

Please call my secretary, Ms. Roberta Keith, at 762-2547 to confirm a time which would be convenient for our meeting. Meanwhile, if you have additional questions or would like to discuss any particular issue before our meeting, please call.

Sincerely,

James E. Eason
Director

JEA/MW/so
Attachment
cc: Assistant Secretary William Horn
Richard Foland, BLM (w/o encl.)
Gary Brougham, BLM (w/o encl.)
Judith M. Brady, Commissioner, Department of Natural Resources (w/o encl.)
John Katz, Special Counsel to the Governor (w/o encl.)
Maggie Moran (w/o encl.)
Rod Swope (w/o encl.)

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513-0099

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DEC 24 1987
DIVISION OF OIL & GAS
ANCHORAGE, ALASKA

DEC 18 1987

Mr. James Eason, Director
Oil and Gas Division
Department of Natural Resources
State of Alaska
3601 C Street
Anchorage, Alaska 99510

Dear Mr. Eason:

Recent statements in the press attributed to you have indicated that you are in disagreement with our geological analysis of the 1002 area. The Bureau of Land Management (BLM), Division of Mineral Resources, recognizes that in any geological interpretation, there is room for alternate interpretations; however, these statements have indicated that you may have used proprietary oil company data which BLM does not have access to. If this is the case, then BLM respectfully requests that you give us access to this data under the Memorandum of Understanding, signed and dated on February 19, 1985, by Donald Hodel, Secretary of Interior, and on March 5, 1985, by Esther Wunnicke, the Commissioner of the Alaska Department of Natural Resources. Further, BLM requests a copy or review of the maps which you state contradict our assessment of the 1002 area. After BLM reviews your information, a meeting of the interested parties is requested to discuss differences in interpretation, areas of agreement, and common goals.

A mutually agreeable assessment of the 1002 area potential is a necessity if progress is to be made in planning the energy future of Alaska and the Nation. Your cooperation in the above request will help to ensure this common goal. I can be contacted at 271-3343.

Sincerely,

ALASKA DIVISION OF OIL AND GAS

RESPONSE TO

"CRITIQUE OF A CRITIQUE"

PREPARED BY

THE NATIVE LANDS GROUP, AKHIOK KAGUYAK, DOYON LTD.,

GANA-A YOO LIMITED, OLD HARBOR NATIVE CORPORATION, AND

KONIAG, INC.

November 20, 1987

The November 16, 1987 letter and attached critique entitled, "Critique of A Critique" from the Native Lands Group, Akhiok-Kaguyak, Doyon Ltd., Gana-A Yoo Limited, Old Harbor Native Corporation, and Koniag, Inc. (the corporations) to Secretary of the Interior Hodel can only be characterized as a deliberate distortion and mischaracterization of the public record. Using entirely conclusory and undocumented statements, the authors attempt to discredit the ANWR Exchange Critique prepared by the Alaska Division of Oil and Gas.

Fortunately, the public record itself rebuts most of the unsubstantiated claims and allegations contained in the corporations' documents. In combination, the public record, the terms of the publicly available proxy statements of Koniag, Inc. and Old Harbor Native Corporation, as well as the candid public comments of Old Harbor and Department of the Interior representatives effectively debunk the remainder of their arguments.

MISCHARACTERIZATIONS WITHIN THE LETTER

> The corporations suggest that there is limited opposition to the proposed exchanges. They claim "...The only two groups that seem to consistently raise the exchanges in the recent hearings have been the environmental groups, who have publicly acknowledged their fear that the proposed exchanges will influence Congress to open ANWR, and the representatives of the Governor's administration."

Since there have been no Congressional hearings to specifically consider the proposed exchanges and in light of Interior's agreement to defer them, it is not unusual that discussion of them has temporarily subsided. However, this fact in no way implies that there is not widespread and vocal opposition to the proposed exchanges.

For example, in the July 22, 1987 edition of the Anchorage Daily News, Representative George Miller, Chairman of the Interior Water and Power Resources Subcommittee, expressed his view that "These exchanges are a cynical attempt to put pressure on the Congress to vote to open the area for oil exploration and production." Earlier, in an August 15, 1986 joint letter to Interior Secretary Hodel ten members of the Senate Committee on Energy and Natural Resources voiced the opinion that "...the proposed exchange will complicate and possibly prejudice a decision by this Congress regarding the fate of those lands." More recently, Senator Bennett Johnson who chairs the Senate Energy Committee has been an outspoken critic of the proposed exchanges.

> The corporations claim that the reason for the state's opposition to the exchanges has changed over time. They maintain "...he (Cowper) opposed the exchanges and withdrew the State from further participation in the negotiations with the Department for entirely different and inconsistent reasons. It was his belief then that the state lacked sufficient information to determine the actual location and value of any petroleum reserves, and that, therefore, the state could not obtain desirable tracts. (emphasis added)

In fact, the state's position has been entirely consistent throughout since Governor Cowper first publicly expressed opposition to the exchanges. The record reflects that Governor Cowper has consistently and repeatedly explained in detail the several reasons for his position, one of them being the inability for anyone to select desired tracts, not just the state, as alleged by the corporations.

In a written public statement on the exchanges dated February 27, 1987 Governor Cowper described his reasons for withdrawing state representatives from the exchange negotiations. Cowper explained "...First, land trades add a layer of complexity to the ANWR issue. By further complicating this already difficult matter, Congressional attention is diverted from the State's central concern which is the opening of the refuge...Second, the State and federal government's understanding of the actual location and value of the petroleum reserves is not good enough to assure that either the State will obtain desirable lands, or that highly prospective tracts are not traded away without sufficient compensation...Another major factor to consider is that land exchanges are not in the best interest of the broadest spectrum of Alaskans..."

Later, in his testimony before the Senate Energy Committee on June 4, 1987, Governor Cowper explained "...although available geologic and geophysical data clearly demonstrate the hydrocarbon potential of the region, the State and Federal government's understanding of the actual location and value of the petroleum reserve is not precise enough to assure that highly prospective tracts are not traded away without the Federal government receiving adequate compensation." (emphasis added) Thus, the record clearly establishes that the Governor's concern always has been and continues to be that the exchange valuation procedures are inadequate to establish reliable subsurface values, and thus do not assure the federal government's receipt of fair market value for the resources. This is precisely the conclusion of the Division of Oil and Gas Critique, which is supported by literally hundreds of pages of memoranda and testimony spanning more than eighteen months preceding the release of the division's critique.

> The corporations claim in their letter to Secretary Hodel that the procedures followed by BLM to determine tract values for the exchanges are "...the same ones used by the United States to determine the values for other dispositions of oil and gas interests..."

In fact, as the Division of Oil and Gas Critique describes in great detail, resource analysis procedures are not used by the federal government to determine the actual value of oil and gas leases. Instead, the procedures are used to establish probabilistic ranges of potential values, and in some cases, a minimum bonus bid, or floor price which, in conjunction with other criteria including a reserved royalty and rental interest, will fairly compensate the federal government for competitively leasing the resources. The important distinctions between the determination of actual value (through reserves analysis or competitive sale) and highly subjective estimates of the range of

potential values should be clear to the corporations, as they surely are to their respective industry partners.

> In describing the former exchange between Arctic Slope Regional Corporation and Interior, the corporations claim "...the Department was able to acquire valuable inholdings in the National Park System at no additional cost to the United States." (emphasis added)

The concern over the equity of this exchange and its potential costs to the federal government has prompted a request from one member of Congress that the General Accounting Office conduct an independent investigation of that exchange, as well as the proposed exchanges (an investigation which is now underway). In their claim that there was no additional cost to the United States, the corporations apparently discount both the foregone bonus revenues and the "value" received by ASRC from its industry partners for allowing them to drill the KIC well before Congress decides whether to open ANWR. In addition, they also discount the "value" of having the information from that well to achieve competitive advantages in both the non-competitive, negotiated exchanges, as well as in any subsequent federal leasing within ANWR. Surely the corporation would not claim that in a competitive lease sale the KIC lands would not have attracted substantial cash bonuses.

> The corporations attempt to downplay the opposition to the proposed exchanges within the Alaska Legislature by referencing some support for the exchanges within the Senate, while remaining silent about the very vocal and widespread opposition expressed by others in the Senate and by members of the House of Representatives.

In fact, there is very strong opposition to the exchanges within the Alaska House of Representatives. An indication of the seriousness of this opposition is provided by a November 13, 1987 letter to Senator Jan Faiks, President of the Senate, from Representative Sam Cotten (Co-Chair, House Resources Committee). In that letter, Representative Cotten expressed his view that "...the Legislature failed to pass a resolution supporting oil and gas leasing in the coastal plain of the Arctic Refuge for one reason: the leadership of the Senate insisted that the resolution include language endorsing coastal plain land trades...I believed then, and believe even more strongly now, that the proposed land trades could do enormous violence to the general interests of the people of the State of Alaska, even though they might benefit oil companies and the involved ANCSA corporations..."

Representative Cotten concluded his letter by noting "...I know that the Senate majority endorsed the trades last year in SJR 7. Yet it seems incomprehensible to me that any Alaska public policymaker would continue to hold this position in light of the many revelations this summer."

> If, as they claim, the corporations cannot "...agree with nor understand the Governor's opposition to the proposed exchanges...," perhaps they

could achieve a better understanding of them by reading Representative Cotten's letter in its entirety.

Representative Cotten continues to describe the bases for his concerns by saying "...I also believe, despite the arguments to the contrary last session, that the proposed trades have diverted and stalled discussion of the larger issue before the U. S. Congress. They certainly have not smoothed the progress of coastal plain legislation on Capitol Hill. In fact, influential U. S. representatives and senators have told the Interior Department to hold off on further trade actions and have requested an investigation of the trades by the General Accounting Office. Fortunately the trades are inactive at present, despite expensive lobbying effort by some ANCSA corporations in Washington. (Notably the Anchorage Public Policy Forum was not able to come up with a proponent of the trades for a public meeting last week. I understand from APPF that state senators who had included the pro-trade language in SJR 7 were not willing to speak on the issue, and ANCSA corporations were unwilling to have a representative defend the trades at the meeting.)" (emphasis added)

CRITIQUE OF THE CORPORATION'S CRITIQUE

In prefacing their specific comments on the Alaska Division of Oil and Gas Critique of the Proposed ANWR Land Exchanges, the corporations express their desire "...to address the more fundamental inaccuracies and misstatements contained in the document." According to the corporations, "These inaccuracies go to the heart of the analysis and cast very substantial doubts on its validity." However, rather than identifying and documenting inaccuracies, the corporations have instead merely mischaracterized the Division of Oil and Gas analysis. Even a casual reading of the Division of Oil and Gas Critique, in light of the criticisms, reveals where the inaccuracies actually lie.

ASRC Exchange:

> The corporations claim that the division's critique "...clearly misstates the impact of the proposed exchanges by including with them as an integral part of its analysis the 1983 Arctic Slope Regional Corporation ("ASRC") Exchange." They also assert that "...the author of the Critique repeatedly includes these ASRC lands in his analysis, resulting in over a 50% overstatement of the acreage actually involved in the proposed exchanges."

Contrary to these claims, the division's critique explicitly differentiates between the two exchanges in its discussions of the former ASRC exchanges and the proposed exchanges. There is no misstatement of fact and no attempt to confuse the issues behind the two exchanges whatsoever. The opening paragraph

of the "Executive Summary" of the Critique, which is repeated verbatim below, speaks for itself.

"When combined with the 1983 ASRC exchange, the Department of the Interior's (DOI) most recent proposed ANWR land exchanges result in the non-competitive conveyance of more than a quarter of a million acres of the most prospective lands within the Coastal Plain of ANWR for a TOTAL VALUE OF ONLY $543.8 MILLION (the appraised value of the exchange lands tendered to DOI). In the ASRC exchange, DOI received surface estate appraised at $5.6 million in exchange for the subsurface rights to approximately 92,000 acres of highly prospective mineral estate beneath lands owned by the Kaktovik Inupiat Corporation in the Coastal Plain of ANWR. The currently proposed exchange would convey the subsurface rights to an additional 166,278 acres of the remaining most highly prospective lands to six Native Corporation groups and their industry partners in exchange for 891,000 acres of surface estate with an appraised value of $538.7 million." (emphasis added)

Contrary to the corporations' claim that the critique results "...in over a 50% overstatement of the acreage actually involved in the proposed exchanges", the Oil and Gas Critique explicitly cites the acreage involved in the currently proposed exchange to be 891,000 surface acres for 166,178 subsurface acres, precisely the acreage involved--no more and no less.

Valuation:

> The corporations claim that "...the State's analysis of the valuation process is equally flawed", and maintain that "The procedure utilized to arrive at the value of these rights with respect to the tracts utilizes the standard methodology followed by BLM (and to some degree the State of Alaska as well) in determining whether the compensation offered to the United States is fair for granting such rights in a lease sale. There was, however, one important departure from the application of this methodology in the case of the valuations for the exchanges. In arriving at the exchange values BLM added a second amount to the amount it determined to be fair compensation for the tract. That amount was the net present value of the right of the United States to receive a royalty from any production." (emphasis added) "...It should be noted that most of the participants for whatever reason were not as successful as Old Harbor in passing on that risk."

As mentioned earlier in the review of the corporations' cover letter to Secretary Hodel, there are substantial and fundamental differences between the purposes for which the BLM and the State of Alaska resource evaluation methodologies are normally used and the misapplication of those methodologies which BLM has adopted to appraise the proposed exchange tracts. The BLM methodology is inadequate to determine beforehand (pre-drilling and delineation) the actual volume of recoverable reserves that may underlie ANWR

tracts, much less to calculate a "second amount" which represents "the net present value to the United States" of the future royalties from those reserves.

One need not rely solely on the division's critique to judge whether the corporations' claims in this instance are reasonable. There are several independent indicators of whether or not BLM has accurately estimated the fair value of the exchange tracts--as the corporations claim. The terms of the proxy statements from Old Harbor and Koniag provide one indication of the "value" of the ANWR exchange tracts to the respective corporations and their industry partners. Whether or not these terms are uniquely favorable, as the corporations now imply, cannot be judged because the remaining corporations and their industry partners have scrupulously avoided exposing the details of their agreements.

The monetary provisions of both the Old Harbor-Texaco contract and the Koniag-Chevron/Phillips contract independently substantiate the deficiencies of the DOI exchange valuation procedures. DOI placed the total value of Old Harbor's exchange lands, and thus the value of the ANWR tracts which it was allowed to select at $45.7 million. Yet, under the terms of the Old Harbor - Texaco agreement, if ANWR is opened and Texaco proceeds with its plans to explore the Old Harbor lands, the corporation will receive a total cash payment of at least $45.7 million plus a 14 percent royalty on any oil and gas produced from those lands. In addition, it will receive a 1.5% royalty on production from any other ANWR lands acquired by Texaco. If in fact DOI added the net present value of the future royalties to the "value" of these tracts before agreeing to exchange them (as claimed by the corporations and BLM), the net present value of the 14 percent royalty retained by Old Harbor must be zero as far as BLM was concerned. An absurd conclusion, at best, but one which follows from the logic of BLM's and the corporations' claims.

The Koniag exchange contract clearly shows that Koniag, as well, stands to receive substantially more from exploration of the ANWR tracts which it selected than DOI has determined those lands to be worth. The value of Koniag's exchange lands, and thus the value of the ANWR tracts it selected, was placed at about $77.4 million by DOI. However, Koniag's industry partners, the Chevron Group and Phillips are committed to pay Koniag a minimum of $58.3 million plus a 20 percent royalty on any oil and gas produced from those lands.

In addition, Koniag can convert the 20 percent royalty to a 30 percent net share of profits once production proceeds exceed all the exploration and development costs incurred by its industry partners. After those proceeds exceed twice the development expenditures plus interest, Koniag has the additional option to convert to a 40 percent share of net profits. Further, Koniag will retain a 0.51 percent royalty interest in any oil and gas production from ANWR lands acquired by its industry partners within six miles of the Koniag tracts, and a 0.255 percent royalty interest in any production

from ANWR lands not recommended by its industry partners for selection by Koniag but which corner on or are contiguous with the Koniag leases.

In other words, at least three oil companies, Texaco, Chevron and Phillips, obviously estimated the value of the exchanged lands to be substantially higher than the federal government's estimated value including the present value of foregone royalties. These examples alone should raise questions as to the validity of the federal estimates. It should be apparent that a competitive lease sale of the same lands would generate significantly higher revenues.

In an August 10, 1987 interview published in the Anchorage Daily News, Old Harbor's attorney, Mr. Jeff Lowenfels provides another (and very revealing) independent assessment of the reasonableness of DOI's valuation. In describing the Old Harbor-Texaco contract terms Mr. Lowenfels said "...the village could receive $45 million even if Texaco doesn't find a drop of oil or a whiff of gas...Putting aside the cultural questions as to whether a sale of Native land is a good deal or not, this is a wonderful money deal for Old Harbor." In the same article, Mr. John Doebel, Associate Regional Director for the U. S. Fish and Wildlife Service observed that land swaps such as Old Harbor's are "sweet" for Alaska Natives and noted that "They can have their cake and eat it too."

Rescission:

> The corporations claim "Another incorrect inference suggested by the Critique is that Native Corporations have the right to rescind the exchange and reacquire their refuge inholdings if the exploration efforts are unsuccessful, thereby depriving the United States of the consideration it received for granting these rights."

Rescission is only mentioned once in the division's critique of the proposed exchanges. The verbatim language in that reference is explicit and unambiguous, and more importantly, it in no way implies or suggests what the corporations now claim. The language is abstracted below from the division's critique:

"For example, one of the exchange contracts currently contains a rescission clause which enables the corporation to relinquish title to its subsurface estate in ANWR in exchange for the reconveyance of a portion--rumored to be as high as 65 percent of the surface estate which it has traded for the ANWR lands. In light of the total uncertainty surrounding whether the ANWR lands have oil and gas reserves, this provision was created to enable the corporations to regain title to a portion of their former surface inholdings should exploration by their industry partners prove nonproductive." (emphasis added) One can contrast this statement with that of the corporations that "...While it is true that at this time one participant has negotiated a

limited right to rescind the exchange with respect to a portion of its lands in consideration for the payment to the United States of an overriding royalty...", and decide independently whether "substantial doubts" have been cast on the validity of the division's analysis.

Structures:

> The corporations attempt to discredit the critique's assessment that DOI has failed to accurately identify and map many of the potential hydrocarbon-bearing structures within the Coastal Plain. They exclaim, "What is even more surprising and calls into question the accuracy of these assertions is that a little more than seven months ago the Governor, in giving his reasons for withdrawing the State from the exchange negotiations, stated that a major reason for his action was the unreliability of the available data and the lack of sufficient data for the State to be able to make selections." They also remark, although it is surprisingly to their detriment that they do so, that "The one participant whose industry advisors had the data from the KIC well, however, selected on the structures mapped by DOI."

Again, the corporations attempt to mischaracterize the public statements of the Governor and to recast a voluminous written record which memorializes the thoughtful development of the Governor's decision to oppose the exchanges. As described earlier in this document, the Governor's public statements reflect and are totally consistent with the opinions reflected in the Division of Oil and Gas Critique--that there are insufficient data to value the tracts for exchange purposes. The data were insufficient in February when the Governor first addressed the issue publicly, and they remain insufficient today.

While there are insufficient data to determine the actual value of the ANWR tracts, there are sufficient data to proceed with competitive leasing. In fact, the available geophysical data are sufficient to identify many larger subsurface traps in ANWR, and to allow the corporations and their industry partners to high-grade those structures in their non-competitive selections--facts clearly supported by the selection patterns which have emerged.

It was no coincidence that Koniag and its industry partners, the Chevron Group (which has access to the KIC well data) and Phillips, were willing to expend the full appraised value of Koniag's exchange lands to purchase only 3183 acres overlying a single prospect. The fact that DOI has mapped a basement structure beneath that acreage is irrelevant to the division's claim that DOI failed to map all identifiable structures in the Coastal Plain during its exchange valuation analysis. What is relevant is the implication this selection pattern has in documenting the additional "value" already received by those involved from the earlier ASRC exchange.

The corporations find it "incredible" that the Division of Oil and Gas was able to identify structures which DOI, by its own admission in the 1002 Report, was unable to map properly for its recoverable resource estimates. However, the facts remains that it did so, and that its maps were completed more than six months before the exchange selection patterns were revealed. Moreover, a direct overlay of the division's maps with the selection pattern map confirms the correlation of subsurface structures beneath each selection approved by DOI. It is inconceivable that the corporations and Interior would argue that only 34 of the 73 tracts selected overlie structures--even in light of the fact that the corporations and their industry partners were willing to exchange valuable cash advances and the corporation-owned surface lands for the opportunity to explore the tracts?

DOI apparently experienced technical difficulties in its attempt to map the structures involving the younger rock units over which many of the selections in the western part of the coastal plain occur. In the Draft 1002 Report, DOI states that "...no prospects were adequately resolved within the detached and highly deformed Mesozoic and Tertiary rocks." It further said "...the probability of traps occurring in the subsurface in this structural setting is high, although determining their location on the basis of existing seismic data is difficult." As anyone familiar with resource analysis should know, if one cannot locate and accurately map a prospect, one certainly cannot produce an accurate appraisal of the value of the overlying tracts.

Pre Lease Exploration:

> The corporations challenge the critique because they believe that it downplays "...the advantages of the United States having the down-hole data from such activities (drilling of exchanged tracts)..."

What the corporations do not acknowledge is the commercial value to them and their respective industry partners of the opportunity to "have the first look" and to have gained that opportunity noncompetitively and at the expense of the public treasury. The fact remains that if ANWR is opened to leasing, a finite number of exploratory wells will be required to either confirm or condemn the area's petroleum potential--something that cannot be determined a priori from BLM's analysis.

The real issues are whether the public treasury should benefit from the bonuses and rentals instead of the corporations, whether all industry representatives will have an equal opportunity to compete openly for the rights to explore and develop the area and, in the final analysis, whether trades negotiated in private among a select group of corporations and industry representatives to achieve collateral federal purposes will supplant a long history of competitive leasing of public resources which has successfully assured receipt of fair market value.

1187E

SUMMARY OF THE KONIAG-CHEVRON/PHILLIPS ANWR LEASE ACQUISITION AGREEMENT

Source: Koniag, Inc. Proxy Statement, October 8, 1987

Koniag, Inc. may exchange the surface estate of approximately 112,564 acres of its land with an attributed value (negotiated by Koniag and Department of the Interior) of about $77.4 million for the subsurface oil and gas rights to approximately 3,186 acres in ANWR, valued by DOI at about $77.4 million.

Major Points

* The Chevron Group and Phillips make a total cash payment of at least $58.3 million** to Koniag for the lease option. The final cash payment is likely to be in excess of $60 million.

  **note: For less than one-half interest (49%) in the Koniag leases, Phillips pays the bulk (about $55 million) of the total cash payment.

* The Chevron Group and Phillips pay to Koniag:

  1) a 20% royalty (which can later be converted to a 40% net profit share) on production from Koniag's ANWR leases.

  2) a 0.51% royalty on production from any other leases acquired by the Chevron Group within six miles of Koniag's ANWR leases.

  3) a 0.255% royalty on production from any ANWR leases acquired by the Chevron Group that were not recommended for selection by Koniag by the Chevron Group and which corner on or are contiguous to the Koniag leases.

* Koniag retains an easement to the surface lands it exchanges and subsistence rights to use those lands in perpetuity.

Specific terms

The Koniag lease acquisition agreement provides the Chevron Group with a 51% working interest and Phillips with a 49% working interest in the oil and gas exploration/development/production rights in Koniag's ANWR leases.

1. The Chevron Group makes an execution payment to Koniag of $510,000.

2. The Chevron Group makes quarterly interest payments to Koniag on an assumed principal escrow account balance of $2.55 million. To date, $322,960 has been paid.

3. The Chevron Group makes four progress payments of $255,000 each to Koniag upon the occurrence certain events, such as

reaching agreement with DOI on the exchaange lands, shareholder approval and execution of the agreement by Koniag and the Secretary of the Interior.

4. The Chevron Group pays to Koniag approximately $1.8 million upon lease issuance and satisfactory opening legislation (subject to downward adjustments based on prior overpayments).

5. The Chevron Group pays to Koniag "drilling premium payments" totalling about $1.7 million (less prior credits) subject to the occurrence of actual drilling within an advantageous timeframe.

6. The Chevron Group pays to Koniag a "bonus differential payment" equal to 51% of the amount by which the average per acre bonus of any federal ANWR leases the Chevron Group acquires in lands proposed by the Chevron Group for selection by Koniag, exceeds three times the average per acre bonus amount the Chevron Group would have paid Koniag had such land been selected by Koniag.

7. The Chevron Group pays Koniag a 0.51% royalty interest on production from any lands acquired by the Chevron Group within six miles of the Koniag ANWR leases.

8. The Chevron Group pays Koniag a 0.255% royalty interest on production from any ANWR leases acquired by the Chevron Group that were not recommended for selection by Koniag by the Chevron Group which corner on or are contiguous to Koniag's ANWR leases.

9. Phillips pays Koniag $1.0 million upon execution of the agreement.

10. Phillips pays Koniag $7.25 million upon enactment of acceptable opening legislation.

11. Phillips pays Koniag $27.5 million upon issuance to Phillips by Koniag of the Koniag ANWR leases.

12. Phillips pays Koniag $19.25 million upon the third anniversary of lease issuance.

13. The Chevron Group and Phillips pay Koniag a 20% royalty on production from Koniag's ANWR leases. The 20% royalty can be converted by Koniag to a 30% net profit share at the time total proceeds from production exceed exploration/development expenditures, or a 40% net profit share when total proceeds exceed twice the lessees expenditures.

14. The Chevron Group and Phillips pay Koniag approximately $29,000 in annual rental payments for the twelve years of the lease term.

SUMMARY OF THE OLD HARBOR-TEXACO ANWR LEASE ACQUISITION AGREEMENT

Source: Old Harbor Proxy Statement, August 28, 1987

Old Harbor Native Corporation may exchange the surface estate of approximately 90,000 acres of its land with an attributed value (negotiated by Old Harbor and Department of the Interior) of about $45.7 million for the subsurface oil and gas rights to approximately 58,000 acres in ANWR, valued by DOI at about $45.7 million.

Major Points

* **Texaco makes a total cash payment of at least $45.7 million to Old Harbor for the lease option.**

* **Texaco pays a 14% royalty to Old Harbor on production from Old Harbor's ANWR leases and a 1.5% royalty from production on any other leases acquired by Texaco in ANWR.**

* **Old Harbor retains an easement to the surface lands it exchanges and subsistence rights to use those lands in perpetuity.**

Specific Terms

1. Texaco reimburses Old Harbor for expenses Old Harbor incurs in the land trade process.

2. Texaco pays Old Harbor $5 million in a lump sum and $50,000 quarterly payments immediately upon shareholder approval of the agreement. The quarterly payments run until the required opening legislation is passed, or December 31, 1993, whichever comes sooner.

3. Texaco pays Old Harbor $2 million in a lump sum upon congressional passage of the required opening legislation.

4. Texaco pays Old Harbor $38.7 million after opening legislation and lease acquisition.

5. Texaco pays Old Harbor a 14% royalty in any production from Old Harbor's ANWR leases.

6. Texaco pays Old Harbor 1.5% royalty on production from any other ANWR tracts which Texaco acquires.

7. Texaco agrees to make an effort to train and employ Old Harbor residents, and provide a $10,000 annual scholarship fund for Old Harbor children.

THE ANWR LAND EXCHANGES

SUMMARY OF WHAT THE ANWR DATA AND RESOURCE ANALYSIS METHODOLOGY CAN DO

The Coastal Plain Data

The data collected from the coastal plain of ANWR and adjacent areas consist of about 1300 line miles of seismic surveys constituting a reconnaisance grid approximately 3 by 6 miles, other regional geophysical surveys, surface geologic information, and subsurface geologic information from wells drilled outside the coastal plain area.

The data are sufficient to support and defend the conclusion that the coastal plain of ANWR has **extremely** high potential for holding commercial quantities of petroleum.

The data are also sufficient to identify many of the larger, potential subsurface traps beneath the coastal plain, enabling informed groups to high-grade (in the non-competitive selections or in competitive bidding) the most prospective tracts based upon the current knowledge.

The selection pattern clearly indicates the correlation between the currently known, most prospective subsurface structures and the most desireable tracts.

Resource Analysis Methodology

This methodology is commonly used to provide a **risked, probabilistic range of estimates of undiscovered, recoverable resources (in barrels of oil or cubic feet of gas) in potential hydrocarbon-bearing traps in the subsurface.**

The methodology can be an effective management decision tool to help a company compare the **relative prospectiveness of different frontier areas and specific regions within those broad areas.**

The estimates of undiscovered, recoverable oil and gas, when combined with unknown, but estimated, future economic variables, can be used to define **a minimum acceptable bid range (in dollar value)** for the purpose of evaluating bids in a competitive lease sale.

THE ANWR LAND EXCHANGES

SUMMARY OF WHAT THE ANWR DATA AND THE RESOURCE ANALYSIS METHODOLOGY CANNOT DO

The Coastal Plain Data

Neither the precise location, the type nor the amount of petroleum resources beneath the ANWR coastal plain are known at this time. Although the KIC well data may provide tremendous additional insight, the geologic and geophysical data are simply insufficient to determine exactly what is there with a high degree of confidence.

Resource Analysis Methodology

This methodology cannot provide the **actual dollar value of the subsurface oil and gas rights beneath individual 2,560 acre tracts in ANWR.**

The methodology is inadequate for that purpose because it can, at best, only provide **a range of estimates of value, not the actual value.**

The actual value of each of the ANWR tracts will only be known after the reservoir(s), if there is one, has been fully produced. For only then will the geologic and economic variables (price of oil, cost of infrastructure, etc.) have revealed themselves.

DOI's ANWR tract values are merely one set of estimates based on one groups' assessment of numerous SUBJECTIVE input variables, such as size and exact location of the potential trap(s), thickness of potential productive reservoir rocks, gas/oil mix, percent fill of the trap(s), future price of oil, timing of development, transportation costs, etc.

There are no studies, to our knowledge, which show more than just a random correspondence between actual competitive bids and either BLM's or MMS' pre-sale, minimum acceptable bid estimates. The actual bids are generally much higher than the estimates.

DOI's single point **estimates** of value for each of the 576 individual ANWR tracts **are not the actual value of those tracts--however, perhaps more importantly, they are also not the FAIR MARKET VALUE of the ANWR tracts.**

FAIR MARKET VALUE is established only in open, competitive bidding in a traditional competitive lease sale.

The terms of both the Old Harbor-Texaco and Koniag-Chevron Group/Phillips lease agreements indicate some measure of what the **minimum fair market value for the ANWR tracts acquired in those agreements might be.** It is a minimum value because the process was non-competitive, with only the partner companies involved.

THE ANWR LAND EXCHANGES

QUOTES CONCERNING THE RESOURCE ANALYSIS METHODOLOGY

Resource analysis methodology can neither determine the actual dollar value of the individual 2,560 acre ANWR tracts nor the true, fair market value of those tracts. The methodology is limited by the available ANWR data and by the fact that it can only provide a **range of subjective estimates** of tract value.

Quotes on Limitations of Methodology:

1. From Koniag, Inc. Proxy Statement, October 8, 1987, page 30:

   "...there is substantial uncertainty as to the value of the Oil and Gas EDP (Exploration, Development and Production) Interests and the value of the contingent interests under the Lease Agreements." (emphasis added)

2. From Old Harbor Proxy Statement, August 28,1987, page 10:

   "...nor can there be any assurance that the values set by DOI fairly estimate the oil and gas potential in the ANWR tracts selected by Old Harbor."

3. From the Energy Information Administration Service Report, Potential Oil Production from the Coastal Plain of the Arctic National Wildlife Refuge, Revised Edition, October, 1987:

   page 11: "Without the benefit of exploratory drilling on site, both kinds of estimates include significant subjective judgements; and, estimates of in-place and econmically recoverable oil are both best described in terms of probability distributions."

   page 19: "It should also be understood that any probabilistic assessment of recoverable crude oil reserves is basically judgmental -- in spite of the scientific appearance of complex computer models that may have been used in deriving it."

4. From attachment to memo to ANWR Land Exchange Negotiating Team from Bill Horn, June, 1987.

   "Devoting sufficient resources to appraising the oil and gas development value of the ANWR is certainly an important ingredient in achieving fair market value for the public's resources." "...appraisals in and of themselves do not ensure receipt of fair market value. Receipt of fair market value can be ensured under adequate, open competition among willing but not obligated buyers and sellers."

5. From the Arctic National Wildlife Refuge, Alaska, Coastal Plain Resource Assessment, 1987, Volume 1:

"The existence of potential hydrocarbon formations or prospects is not known with certainty prior to exploratory drilling. Information concerning the existence of potential producing fields is derived from inferences, extrapolations and subjective judgments."..."No data are available on the nature and distribution of included hydrocarbons or whether hydrocarbons are present at all. **An exact prediction of resource quantities under such conditions of uncertainty is impossible because the uncertainties in the input data translate to uncertainties in the answers**." (emphasis added)

6. In Decision Analysis for Petroleum Exploratin, Paul D. Newendorp, 1975, page 368:

"...we must not fall into the error of believing that because we have attached a number to a chance that we have thereby made a successful issue more sure, or have in any way altered its probability. Further, we must be ever on the watch for that most insidious and widespread superstition that assumes that mathematical manipulation, if sufficiently accurate, involved and prolonged can transmute doubtful data into positive scientific fact."- Hayward, 1934.

THE ANWR LAND EXCHANGES

SUMMARY OF DOI'S FAILURE TO RECEIVE FAIR MARKET VALUE

In order to estimate the undiscovered recoverable oil resources for an area, it is necessary to produce maps of all of the individual prospects.

Many of the selections made by the Native groups and their industry partners in ANWR, by DOI's own admission, overlie prospects which DOI failed to map. Therefore, DOI would have been unable to estimate dollar value for the resources contained in these "unmappable" prospects.

Many of the selections overlie the elongated, northeast-southwest oriented structural trends that involve the Tertiary and Mesozoic rocks in major thrust-related folds.

DOI was unable to produce maps of these potential hydrocarbon-bearing structures, as illustrated in the following direct quotes from the final 1002 report.

However, DOI attributed a minimum value of about $300 per acre to most of these tracts based on unknown considerations and methodology. The industry partners obviously attributed great value to these tracts since they were selected by them in the non-competitive selection process.

Quotes from the 1002 Report:

> p.67: "No prospects were adquately resolved within the detached and highly deformed Mesozoic and Tertiary rocks." "...the probability of traps occurring in the subsurface in this structural setting is high, although determining their location on the basis of existing seismic data is difficult."
>
> p. 76: "The estimate of economically recoverable oil resources for the 1002 area represent an assessment of only the structural prospects which were identified on the basis of seismic interpretation." (emphasis added)

These quotes reveal that recoverable resources were estimated only for the 26 seismically mapped structures; none of the major Tertiary/Mesozoic structural trends (over which many selections were made) were adequately resolved to even attempt estimates of resources or dollar value.

As revealed in the Koniag-Chevron Group/Phillips and Old Harbor-Texaco lease acquisition agreements and in the fact that DOI assigned only a minimum value to many tracts where prospects could not be mapped or identified, the native corporations stand to receive substantially more from the exploration of the tracts which they selected than DOI has claimed those lands to be worth.

THE ANWR LAND EXCHANGES

SUMMARY OF THE IMPACT OF THE EXCHANGES

The Department of the Interior (DOI) in its press release on the land exchanges dramatically downplays the impact of the exchanges when it is quite clear that the selections, in effect, transfer the subsurface petroleum rights to the most prospective portions of the coastal plain to a few select companies and Native corporations in a non-competitive process.

The selection pattern, when overlain by the major structural trends maps (the trends that are likely to be traps or contain multiple traps), reveals that the most prospective ANWR tracts have been selected in either the 1983 ASRC exchange or the currently proposed exchange.

The selections target the structurally highest portions of the very large prospects #18 and #19 (from the 1002 report), as well as the prospects with a chance for closure aligned along the major Tertiary thrust fronts.

All tracts within the boundaries of the 26 structures identified in the 1002 report are not equally prospective. Those tracts which overlie portions of structures that exhibit closure in all directions, and those tracts which overlie the highest parts of the structures are the most favorable. These are, in large part the tracts that have been selected for exchange.

Questions for the ANWR Exploration Experts

One measure of the relative prospectiveness of the lands already exchanged or proposed for exchange is revealed in the answers to the following questions which can be asked of explorationists with specific knowledge of all the ANWR data:

1. Would you rather own the approximately 266,000 acres (about 100,000 acres in the previous ASRC exchange and about 166,000 in the currently proposed exchange) already exchanged and selected for exchange in ANWR, or the entire remaining acreage (approximately 1.25 million acres) of the coastal plain?

2. Disregarding the previous ASRC exchange lands, would you rather own the approximately 166,000 acres selected in the currently proposed exchange, or any other 166,000 acres of the coastal plain?

3. Again, disregarding the previous ASRC exchange lands, would you rather own the approximately 166,000 acres selected in the currently proposed exchange, or the entire remaining coastal plain acreage (approximately 1.25 million acres)?

THE ANWR LAND EXCHANGES

SUMMARY OF THE VALUE TO BE EXCHANGED

For the purpose of the 1983 ASRC ANWR land exchange, DOI originally estimated the subsurface mineral rights of the approximately 100,000 acres of the ANWR coastal plain to be conveyed to ASRC to be worth about $388.5 million, of which $111.8 million represented the bonus value and $276.7 represented the royalty value.

Through a discounting process that considered Alaska's 90% statutory revenue share, and the application of risk factors related to the likelihood of opening and ultimate ownership, the original value of $388.5 million was reduced downward to a final total value about $5.9 million.

DOI conveyed the subsurface mineral rights to the approximately 100,000 acres of the coastal plain for the surface rights to about 100,000 acres in the Chandler Lake area which had an attributed value of $5.1 million.

In the currently proposed exchanges, DOI stands to receive about 891,000 acres of refuge inholdings with a total NEGOTIATED value of about $538.7 million. DOI retained no royalty interest in any of the ANWR exchange lands.

The Native groups and their industry partners stand to receive the subsurface mineral rights to about 166,278 acres of highly prospective coastal plain acreage, valued by DOI for the purpose of this exchange at about $538.7 million.

The proxy statements of Old Harbor and Koniag, Inc. reveal that these Native corporations will transfer the oil and gas rights to their industry partners for cash payments which approximately equal the total value DOI attributed to the ANWR lands selected PLUS SUBSTANTIAL royalty interests in any production from those lands and certain other ANWR lands their partners may acquire.

Old Harbor stands to receive ryoalty payments of 14% on the lands it selected plus 1.5% on certain other ANWR lands their partner, Texaco may acquire.

Koniag stands to receive royalty payments of 20% (which can be converted to a 40% net profit share) on the lands it selected plus 0.51% and/or 0.255% on certain other ANWR lands their partners, the Chevron Group and Phillips may acquire.

The terms of the lease acquisition agreements between the other four Native entities and their respective industry partners are not known.

THE ANWR LAND EXCHANGES

SUMMARY OF THE BASIS FOR INDUSTRY BIDS IN A LEASE SALE

Historically, competitive lease sales, even in high potential areas, have drawn much interest from some oil companies, and very little from others. The bidding in a sale can be very diverse; some tracts, usually those perceived as having high potential, oftentimes receive a wide range of bids. On the other hand, certain other tracts may be highly attractive to some companies but of no interest to others.

Oil companies determine their specific bidding strategies based upon certain of the following considerations:

1. The company's resource evaluation based on geological and geophysical interpretation of the subsurface.

2. The company's current lease holdings adjacent to sale area.

3. The nearby production facilities the company operates.

4. The degree of competition anticipated from other oil companies for specific tracts.

5. The company's exploration budget allocation for bidding in the lease sale.

6. The company's current tax situation.

7. The terms of the lease sale (bonus variable, net profit, royalty, length of lease, etc.).

ANALYSIS OF VALUATION OF CORPORATION LANDS TO BE ACQUIRED IN PROPOSED ANWR LAND EXCHANGE

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

The U.S. Department of the Interior (DOI) and several Alaska Native corporations (Corporations) have entered into a tentative agreement whereby DOI would exchange oil and gas interests in certain tracts within the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) for certain Corporation surface estate lands in several Alaska national wildlife refuges. The proposal calls for approximately 891,000 acres of Corporation refuge inholdings to be exchanged for approximately 166,000 acres of DOI oil and gas interests. The land and interests to be exchanged are valued by DOI at $538.7 million.

The Alaska Department of Natural Resources has completed an analysis of the process used by the exchange participants to value the Corporation lands. This analysis reveals a disturbing departure from standard federal fair market land appraisal practices. The result is a negotiated value for these lands which exceeds by from three to almost nine times the federal fair market appraisal values.

Although fair market value appraisals were completed by DOI for the Corporation lands, the resultant values were not used as the basis for the proposed land exchange. Instead, DOI employed an additional set of subjective factors in an attempt to capture through negotiation an intangible "public interest" value for uses other than development on the subject lands. The final value assigned the Corporation lands, and used as the basis for acquisition of the ANWR oil and gas rights through exchange, was determined solely through negotiation between the Corporations and the DOI Assistant Secretary for Fish and Wildlife and Parks (Assistant Secretary). Unfortunately, the administrative record detailing this negotiation process is inadequate to determine all applicable considerations used by the parties in negotiating and assigning the final "public interest" values. Furthermore, the available record does not reveal how the parties may have addressed and discounted a number of individual factors which collectively influenced the valuation process, as described below.

1. **DOI did not follow uniform federal land appraisal practices. Instead it substituted subjective factors through negotiation to inflate the final value of the Corporations' surface estate refuge inholdings.**

   DOI is required to adhere to the Uniform Appraisal Standards for Federal Land Acquisitions (1973) when conducting appraisals for purposes of an exchange of land. These standards require that fair market value appraisals be completed as a basis for subsequent land transactions. Furthermore, as described in the policy section of these standards, "in acquiring real property, or any interest therein, it is the policy of the United States

impartially to protect the interests of all concerned." This policy was reinforced by the U.S. Supreme Court, whereby the following appears Searl v. School District, Lake County, 133 U.S. 553, 562 (1890).

> "Since public funds are involved, it is incumbent upon all who are employed to represent the public interest . . . it is the duty of the State in the conduct of the inquest by which compensation is ascertained, to see that it is just, not merely to the individual whose property is taken but to the public which is to pay for it."

Although the DOI completed fair market value appraisals of the Corporations land during 1985-87, at an estimated cost to the United States of more than $350,000, these appraisals, with one exception (accessible land within the Kenai National Wildlife Refuge), were not used as the basis for land valuation in the proposed exchange. Instead, DOI chose to develop and engage a heretofore new, untried and subjective procedure to value the nonfederal lands acquired by DOI through exchange, and then failed to adhere to this procedure.

The new DOI land valuation procedure is outlined in a February 20, 1987 memorandum to the federal ANWR Exchange Negotiating Team from the Assistant Secretary. The procedure attempted to capture the environmental/public interests which may be associated with the lands. This information was then used by DOI to negotiate final values with the Corporations. However, the sole responsibility within DOI to negotiate final land values for the Corporation land resided with the Assistant Secretary.

Section 1302(h) of the Alaska National Interest Lands Conservation Act (ANILCA) does allow DOI to conduct land exchanges in Alaska for other than equal value, if it is determined they are in the public interest. However, Section 1302(h) of ANILCA does not absolve DOI from the responsibility of defining the "public interest" value in precise terms which can be examined by the affected public.

According to DOI officials and Corporation representatives knowledgeable about the valuation process, the Assistant Secretary met individually behind closed doors to negotiate and determine final Corporation land values. There is little or no written administrative or other public record to document the rationale used by the Assistant Secretary to determine these final values. It is reported that no other DOI official besides the Assistant Secretary was present at any of these final valuation meetings. As a result, the public record does not document the valuation adjustments which may have occurred. Therefore, there is no way to ascertain whether the negotiations between the Assistant Secretary and the various Corporations were handled

consistently with similar valuations and adjustments for land of similar type and character.

The only valuation evidence pertaining to the final stages of these negotiations which does exist, was produced by the Corporations. Between June 29, 1987 and July 2, 1987, each of the Corporations provided the Assistant Secretary with written summary reports detailing the acreage and land valuation figures which had been mutually negotiated. On July 6, 1987, the Assistant Secretary then signed each of the Corporation letters to denote that DOI concurred with each of the acreage and value figures specified therein. Two of the six letters were noted as either "confidential and proprietary pursuant to the Freedom of Information Act," or "confidential exempt from FOIA disclosure."

Figure 1 (attached) provides a comparison of the actual fair market land appraisal value completed by DOI from 1985-1987, and the final negotiated values for the Corporation land. The comparison is not exact, because more Corporation land was appraised by DOI than was ultimately included in the proposed exchange. However, most, if not all of the appraised areas included the land in the proposed exchange. In addition, the excess land included in the DOI appraisals was of very similar character and type to the exchanged land.

This comparison reveals that the average Corporation land $/acre value as determined by DOI fair market appraisal was $111.73. The average Corporation land $/acre value as determined by negotiation between the Corporations and the Assistant Secretary was $601.89. Therefore, the average $/acre value of the Corporation land increased through negotiation by an average of $490.16/acre, or approximately 439 percent. The range of the average $/acre value differential among the Corporations land varied considerably. For example, the Akhiok-Kaguyak land increased in value through negotiation by approximately 200 percent, while the Doyon land increased by approximately 76 percent.

2. **The negotiated values for the Corporation lands do not accurately account for the effect of Section 22(g) of ANCSA.**

Section 22(g) of the Alaska Native Claims Settlement Act of 1971 (ANCSA) provides that land patented to a village corporation within a component of the National Wildlife Refuge System (existing in 1971) shall reserve to the United States the right of first refusal if the land is ever sold by the corporation. In addition, Section 22(g) requires that such land remain subject to the federal laws and regulations governing the use and development of such refuges.

Approximately 45 percent of the total Corporation land included in the proposed ANWR land exchange is subject to the provisions of Section 22(g). Section 22(g) affects all of the Koniag, and

Akhiok-Kaguyak land as well as about 99 percent of the Old Harbor land (located within the Kodiak National Wildlife Refuge) and over 50 percent of the Native Lands Group land (located within the Yukon Delta National Wildlife Refuge and the Kenai National Wildlife Refuge).

The effect of Section 22(g) on land use and resultant land value is profound. Land subject to Section 22(g) may only be used and developed if such uses will not materially impair the values for which the refuge was established. This development restriction has a substantial depressive effect upon the market value of land.

An example of this effect is contained in an independent report obtained by Koniag to review the DOI fair market value appraisal of its land. Koniag retained the Dirksen Appraisal Company of Anchorage, Alaska to review and analyze the methodology used in the DOI appraisal. In a September 24, 1987 letter to Koniag, Dirksen concluded that the USFWS appraisal overstated the market value of the Koniag lands by 40 to 45 percent. He further noted in the letter that the impact of Section 22(g) could reduce values from a low of 10 percent to a high of 90 percent, depending upon the land involved and the degree of control exercised by the U.S. Fish and Wildlife Service (USFWS).

The DOI administrative record fails to accurately describe the extent to which Section 22(g) resulted in a discount effect upon the Corporation land. Even the Corporation letters (cosigned by the Assistant Secretary) which identify the negotiated values are inconclusive. The Akhiok-Kaguyak letter fails to mention Section 22(g) entirely. The Old Harbor letter includes only a casual reference in a footnote to a 22(g) discount. The Koniag letter (June 29, 1987) refers to a 22(g) discount of 13 percent. However, this discount is described to apply to only 33 percent of the Koniag lands involved in the proposed exchange. The Native Lands Group land subject to Section 22(g) appears to have been discounted to a lesser (than 13 percent) extent.

3. **The negotiated values for the Corporation lands do not accurately account for the effects of the Corporation retention of subsistence access easements.**

Under terms of the proposed exchange, the affected village residents will retain certain easements on the land to be transferred to DOI. These easements will be retained for subsistence and access purposes. They grant in perpetuity the right of access for villagers to enter upon and cross the lands for the purpose of engaging in customary and traditional uses of wild and renewable resources for direct personal or family use and consumption. Also included is the right to make and sell handicraft items and continue customary trade from these lands.

The effect of these retained easements on the Corporation land

values was not consistently accounted for in the valuation process. The DOI fair market value appraisals failed entirely to deal with these easements, most likely because at the time most of the appraisals were completed, these easements were not yet part of the overall land exchange proposal.

According to the Koniag proxy statement, dated October 8, 1987, DOI and Koniag negotiated a value for the Koniag retained subsistence access easement equal to 2 percent of the gross value of the Koniag land. However, the DOI administrative record, including the Assistant Secretary's February 20, 1987 memorandum, includes no mention of a deduction for the retained subsistence access easements.

Doyon's letter to the Assistant Secretary (July 2, 1987) detailing final acreages and negotiated land values also identifies a 2 percent subsistence easement reduction. However, this reduction is shown to apply to only about 30 percent of Doyon's land included in the proposed exchange.

Therefore, it is difficult to determine whether DOI uniformly discounted this or other Corporation land values also subject to the subsistence access easements. The only other proxy statement published to date (Old Harbor, August 28, 1987), includes no mention of any valuation discount, even though there is specific reference to the retainment of these subsistence access easements. If there is an across-the-board 2 percent subsistence access easement deduction on all Corporation land subject to the easement, DOI has failed entirely to describe the rationale behind the deduction.

4. **The negotiated values for the Corporation lands do not recognize the risk associated with the Corporation's retention of the subsurface estate.**

All Corporation land proposed for exchange excludes the subsurface (mineral) estate, even though this estate (where owned by the Corporations) was potentially available for acquisition by DOI. Most of the Corporation areas proposed for exchange consist of Native village corporation surface estate land acquired under ANCSA. Outside of the village corporation land within those national wildlife refuges in existence in 1971, Native regional corporations acquired the subsurface estate under the village corporation lands (approximately 55 percent of the total Corporation land proposed for exchange).

According to DOI correspondence, it was determined early in the exchange process that the Corporation subsurface estate would not be acquired. The rationale for this decision appears to be that the additional cost to the U.S. to obtain these lands was not justified, nor necessary to protect refuge resources.

In a March 6, 1987 letter to the Co-Chair of the Alaska House Resources Committee, the Assistant Secretary suggested that including a subsurface estate component in the ANWR exchanges might have an adverse impact on federal efforts to acquire the Corporation in-holdings. He said the acquisition of the subsurface estate:

> ". . . might work contrary to our exchange objectives (i.e. subsurface interests offer no wildlife values per se). In the context of the current exchange proposals, we are unaware of any significant subsurface resources that might be developed in the foreseeable future. If there are developable subsurface resources available, their exchange value, if high, may inhibit our exchange objectives by reducing the amount of ANWR interests that might otherwise be available for the acquisition of inholdings."

However, this finding is inconsistent with the facts. Under both state and federal law, the subsurface estate owner has the right to reasonably access and utilize the surface estate as part of his ownership interest. Therefore, the failure of DOI to acquire the subsurface estate leaves the threat of future exploration and development on these lands for locatable minerals, including oil and gas. Furthermore, under ANCSA, the subsurface estate is defined to include sand and gravel, a resource in high demand in many rural areas of Alaska. The residual subsurface ownership interest is yet another influence on the value of the surface estate which DOI failed to address.

It has been suggested that the DOI and Corporations may have purposefully excluded the Corporation subsurface estate from the proposed land exchange due to concern that it may trigger the revenue sharing requirements of Section 7(i) of ANCSA. Section 7(i) provides that ANCSA regional corporations (which own the subsurface estate under village corporation surface estate) must share with all other regional corporations 70 percent of the revenues derived from timber and the subsurface estate conveyed to them under ANCSA.

There is evidence to support this contention. On July 16, 1987, the Sealaska Corporation (an ANCSA regional corporation not involved in the proposed exchanges) initiated an arbitration against Koniag (an exchange participant) claiming that any revenues derived from ANWR oil and gas interests acquired by Koniag in the proposed exchange are subject to the revenue sharing provision of Section 7(i). There is as yet no ruling in response to this claim.

5. **The negotiated values for the Corporation land do not reflect the title uncertainty associated with the land.**

The Corporation land proposed for exchange includes many areas which are selected but not owned by the Corporations. Although the selections have been reviewed by the Bureau of Land Management (BLM), and are preliminarily determined to be valid, there can be no absolute claim of ownership to these lands until they are actually conveyed to the Corporations. All ANCSA land selections are subject to valid existing rights, including possible third-party interests (e.g. Native allotments, federal homesites, trade and manufacturing sites, etc.) and ownership claims by the State of Alaska to submerged lands under navigable waters.

Approximately 25 percent of the Corporation land proposed for exchange is selected, but not yet owned, by the Corporations. In this sense, DOI is proposing to exchange ANWR oil and gas interests, on an equal value basis, for some lands which are not owned, and in some cases, may never be owned, by the Corporations. For example, 143,344 acres (48 percent) of the Native Lands Group land proposed for exchange is not owned, rather is selected, by the Corporations.

The State of Alaska estimates there are dozens of waterbodies (rivers and lakes) within the areas proposed by the Corporations for exchange for which there has not yet been a navigability decision by BLM. The state asserts ownership to the submerged lands under navigable waters (lakes and streams) by virtue of the Alaska Statehood Act and the Equal Footing Doctrine. A BLM navigability or court decision on these waterbodies is required to determine ownership to the submerged land under navigable waters. Therefore, DOI may have included in the proposed exchange, and paid for, land which is owned by the state.

Another title uncertainty exists with respect to the survey status of the Corporation land. A substantial portion of the total Corporation land proposed for exchange has not yet been surveyed for purposes of patent. Survey status of land has a significant influence upon land title and value. Prior to survey, the amount of land owned by a particular Corporation can only be estimated. Second, the survey will meander (exclude) waterbodies which are owned by the state.

In addition, patented (surveyed) lands are generally considered more valuable in the market place than are unpatented (unsurveyed) lands. Financial institutions in Alaska will generally not allow real estate mortgage loans on unpatented ANCSA lands.

Another consideration is the presence of several hundred federal access easements reserved by the BLM on land conveyed to the Corporations under authority of Section 17(b) of ANCSA. These easements are generally 25 feet or 60 feet in width and may also include numerous one acre sites for public use associated with

access to adjacent public land.

Finally, there appears to have been no consideration during negotiations of the Alaska Land Bank program included in Section 907 of the Alaska National Interest Lands Conservation Act (ANILCA). The Alaska Land Bank program allows DOI, acting through the USFWS, to enter into a written agreement with the Corporations which ensures that the Corporation land would managed by the Corporation in a manner compatible with the adjoining USFWS land use management plan.

This means that Corporation land included in the Alaska Land Bank program may not be developed unless such development is consistent with the purposes of the applicable USFWS land use plan for refuge management. Most of the Gana-A'Yoo land (56,000 acres) included in the proposed land exchange is entered into the Alaska Land Bank program. However, DOI has negotiated an average $/acre value for the Gana-A'Yoo land which is approximately 8 1/2 times greater than the DOI fair market appraised average $/acre value (Figure 1). This is surprising, given that these particular lands are already under the exclusive management control of the USFWS by virtue of their inclusion in the Alaska Land Bank.

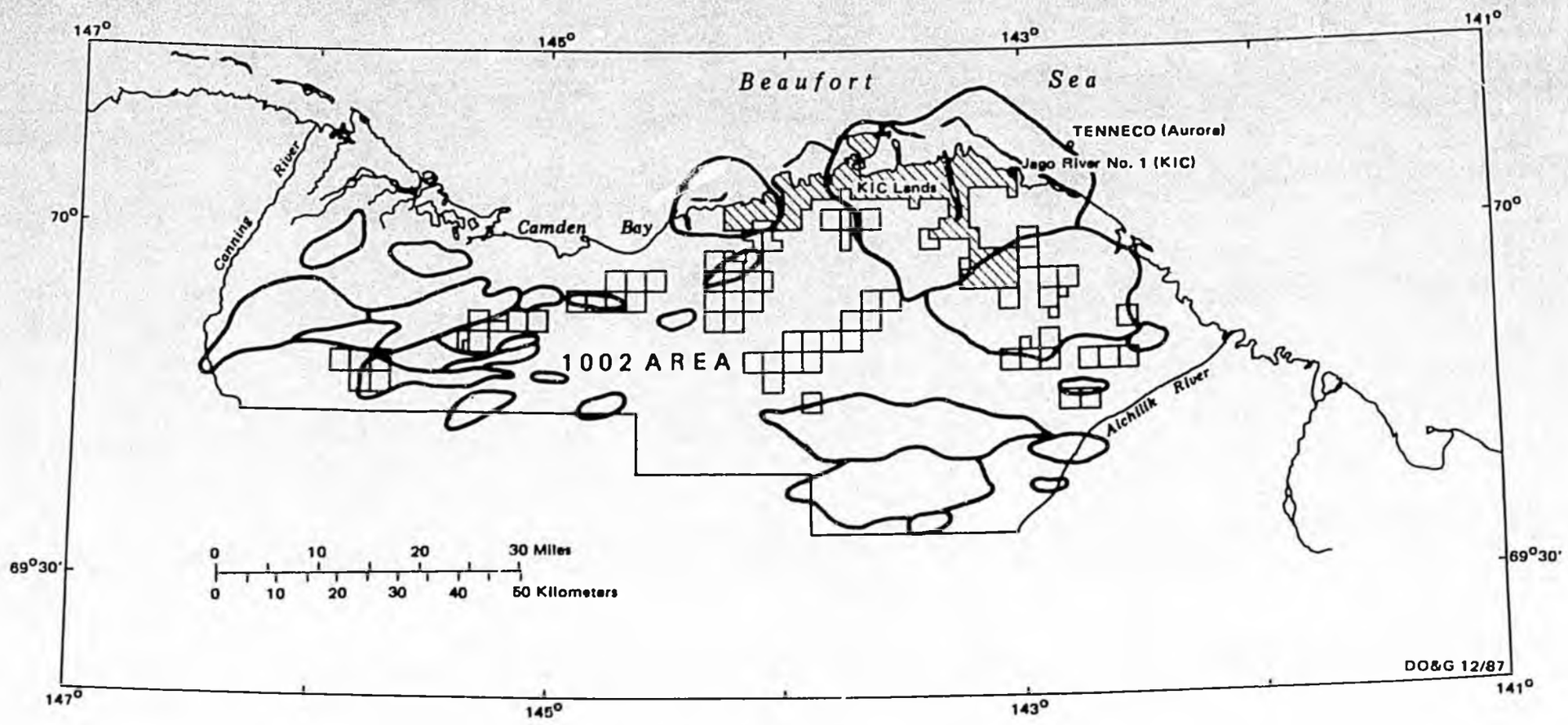
12/30/87

FIGURE 1

COMPARISON OF USFWS APPRAISAL VALUES AND THE DOI NEGOTIATED VALUES FOR CORPORATION LAND

Corporation	Appraised[1] Acreage	Negotiated[2] Acreage	Appraised[3] Value	Negotiated[4] Value	Appraised $/Acre	Negotiated $/Acre
1. Doyon	950,133	220,545	$60,641,620	$121,696,139	$63.82	$551.8
2. Gana-a 'Yoo	61,745	57,397	$4,432,945	$35,031,355	$71.79	$610.33
3. Native Lands Group	420,151	298,815	$67,876,000	$184,113,203	$161.56	$616.14
4. Koniag	164,619	112,564	$26,763,000	$77,442,711	$162.58	$687.99
5. Old Harbor	97,090	90,355	$9,882,940	$45,733,814	$101.79	$506.16
6. Akhiok-Kaguyak	190,729	115,947	$41,036,000	$75,048,516	$215.15	$647.27
TOTAL	1,884,467[5]	895,622	$210,632,505[6]	$539,065,738	$111.72	$601.89

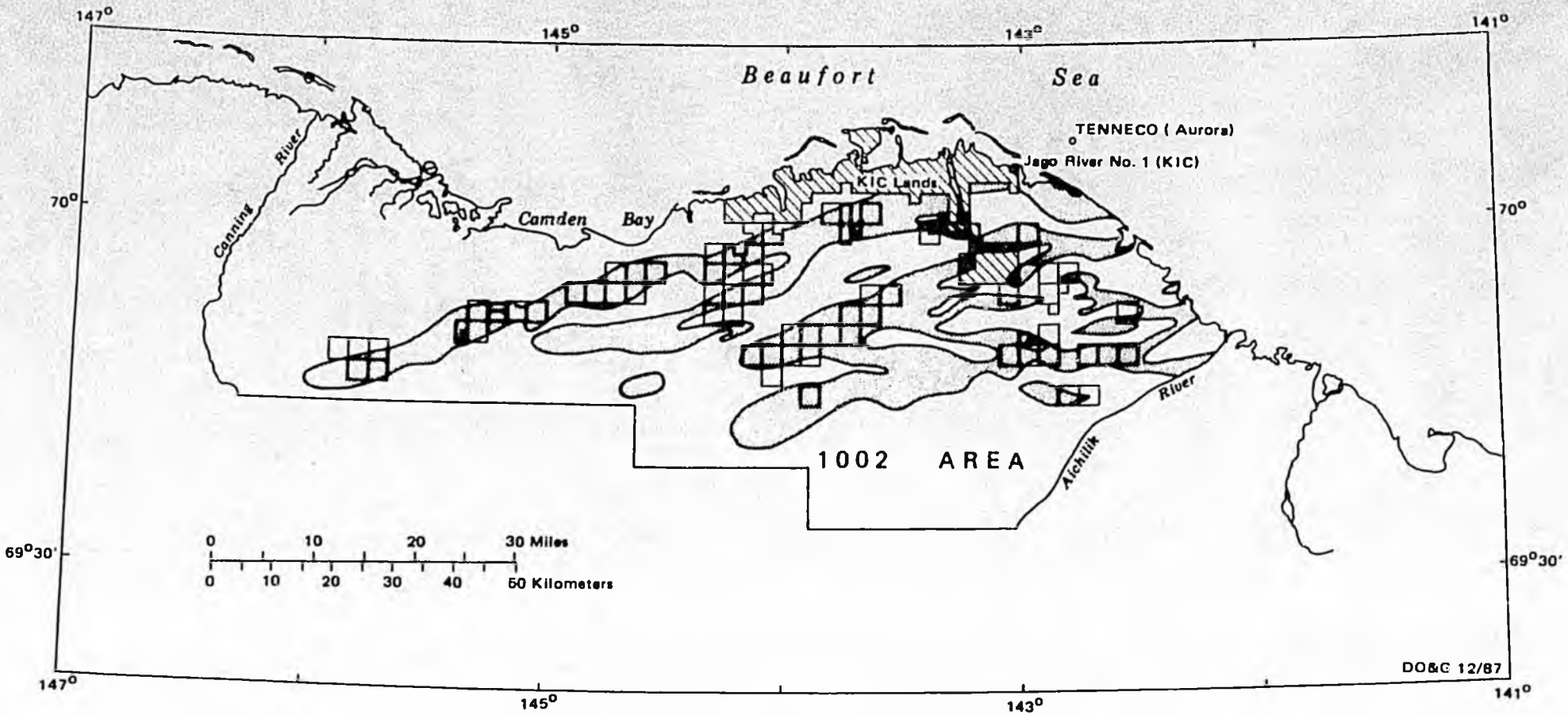
[1]Acreage totals based upon DOI fair market value appraisal records.
[2]Acreage totals based on legal descriptions submitted for approval by Corporations to DOI Assistant Secretary.
[3]Fair market value as determined by USFWS fee appraisers or contract appraisers between 1985 - 1987.
[4]As determined by DOI Assistant Secretary and used as basis of value for Corporation land proposed for ANWR land exchange.
[5]Includes approximately 988,845 acres that were not included in proposed ANWR land exchange.
[6]Includes appraised value for the 988,845 acres not included in proposed ANWR land exchange.



PROPOSED LAND EXCHANGES

Department of the Interior Interpretation:

Seismically Mapped Prospects

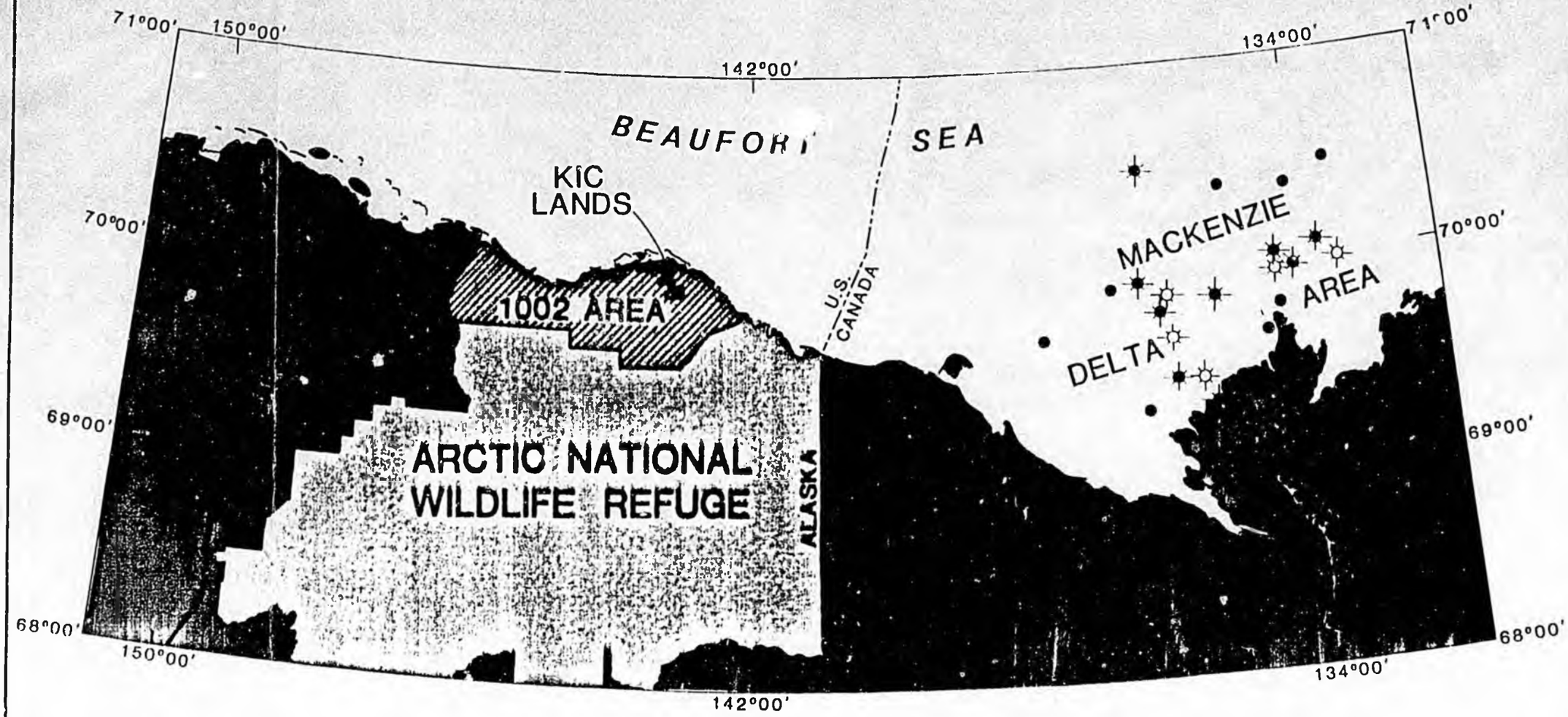


PROPOSED LAND EXCHANGES

Department of the Interior Interpretation:

Trends of Highly Deformed Mesozoic and Tertiary Rocks

GEOGRAPHICAL LOCATION

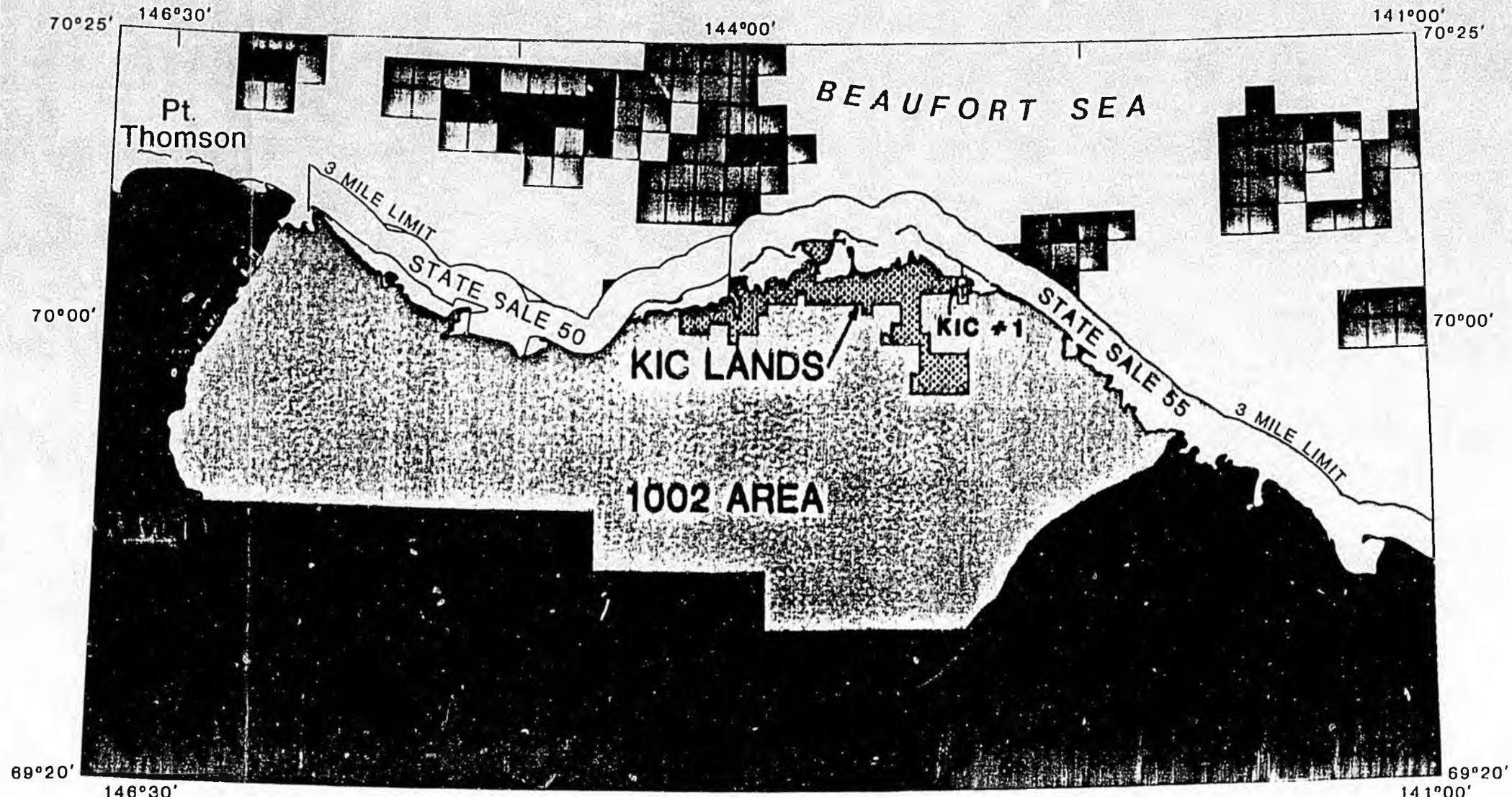


0 50 100 Miles

0 50 100 150 Kilometers

DMGGS 1/87

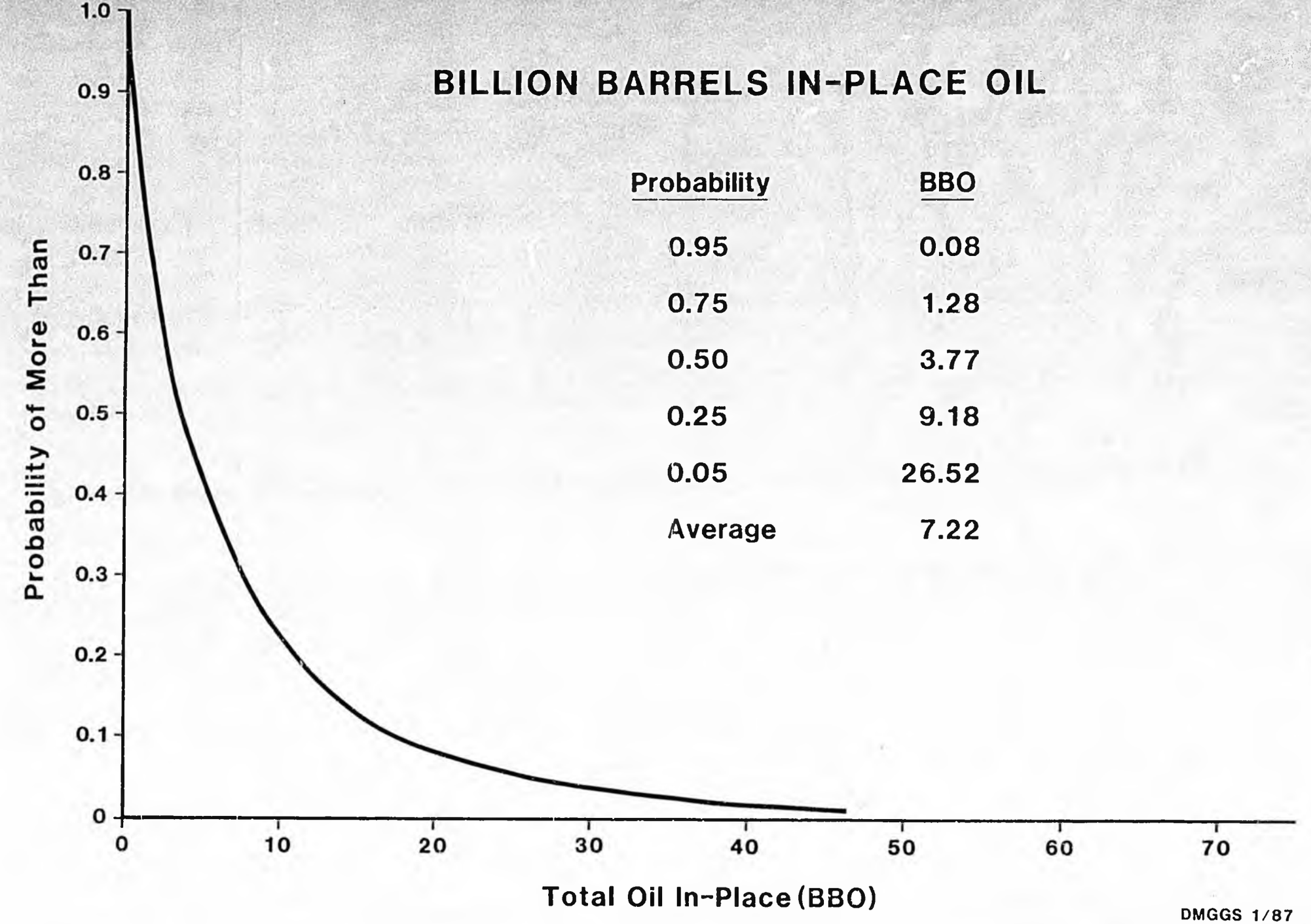
EXPLORATION



DMGGS 1 87

BILLION BARRELS IN-PLACE OIL

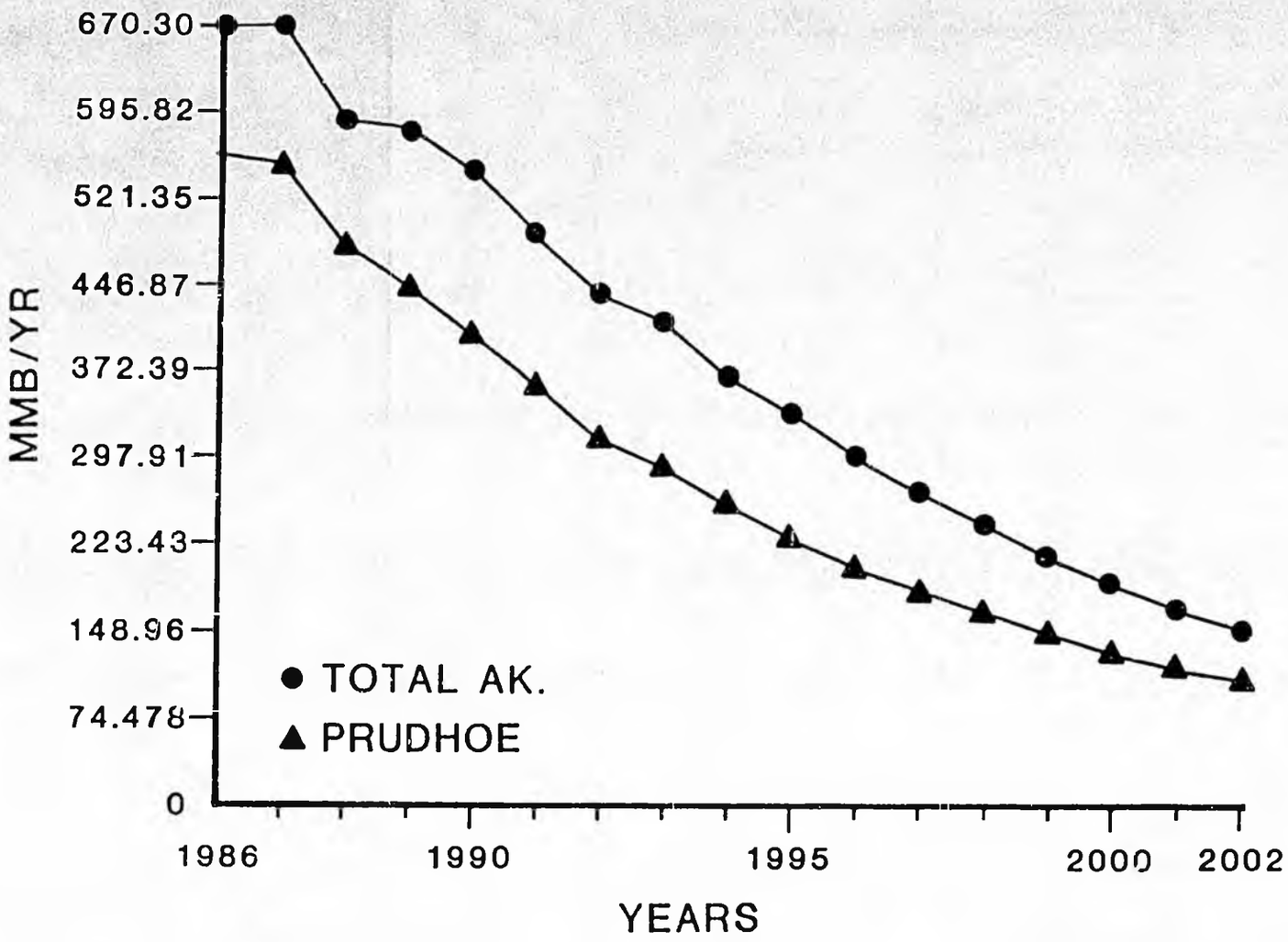
Probability	BBO
0.95	0.08
0.75	1.28
0.50	3.77
0.25	9.18
0.05	26.52
Average	7.22



DMGGS 1/87

PROJECTED ALASKAN PRODUCTION

SOURCE: Dept. of Rev. March 1986 Quarterly Report



Values in Millions of Barrels

YEAR	PRUDHOE BAY	TOTAL ALASKA
1986	558.40	670.30
1987	549.36	669.95
1990	403.75	544.44
1995	229.36	335.52
2000	133.44	193.07
2002	107.55	151.59

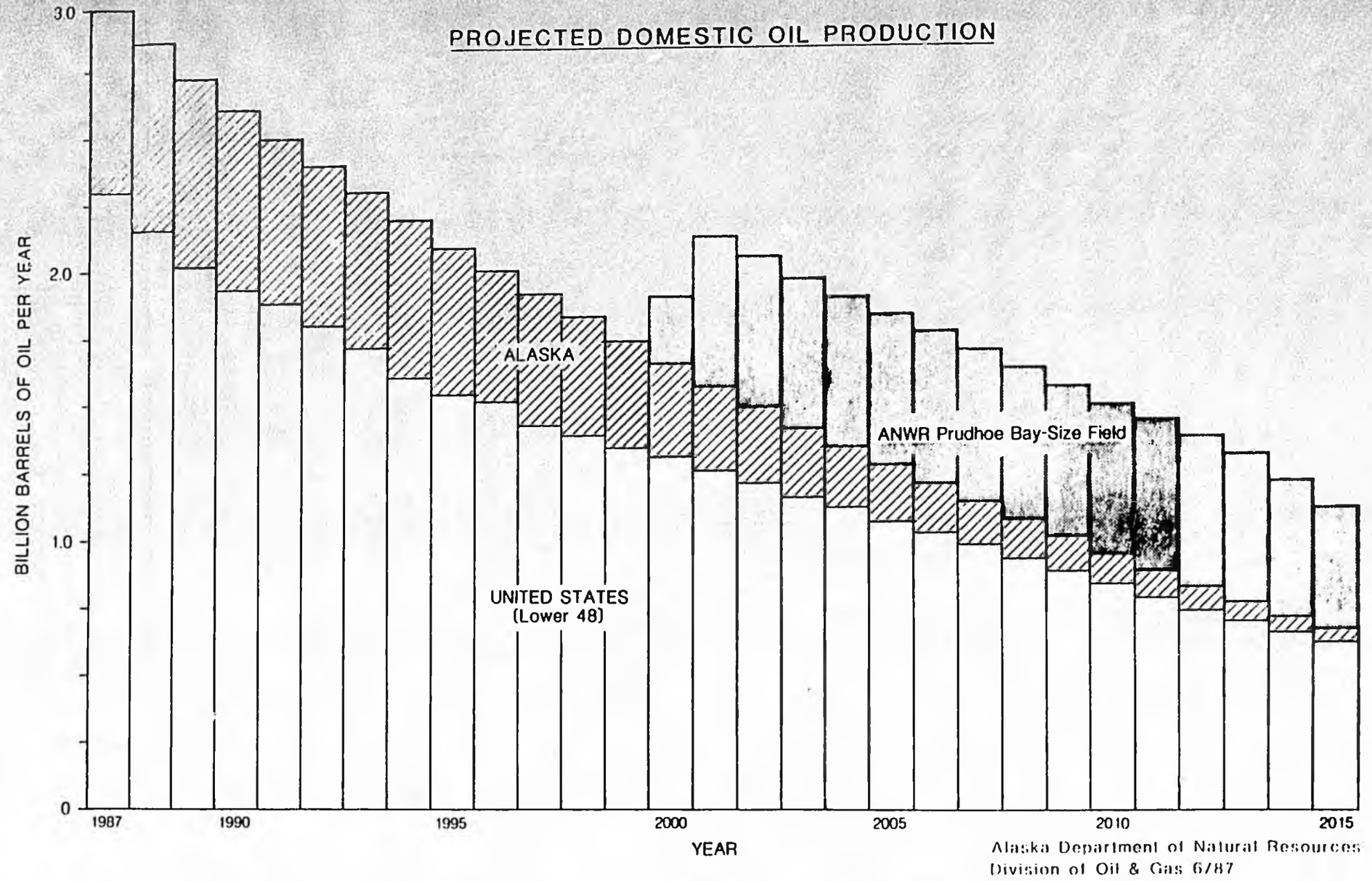


Figure 3. Projected Domestic Oil Production.

PROJECTED U.S. IMPORTED OIL

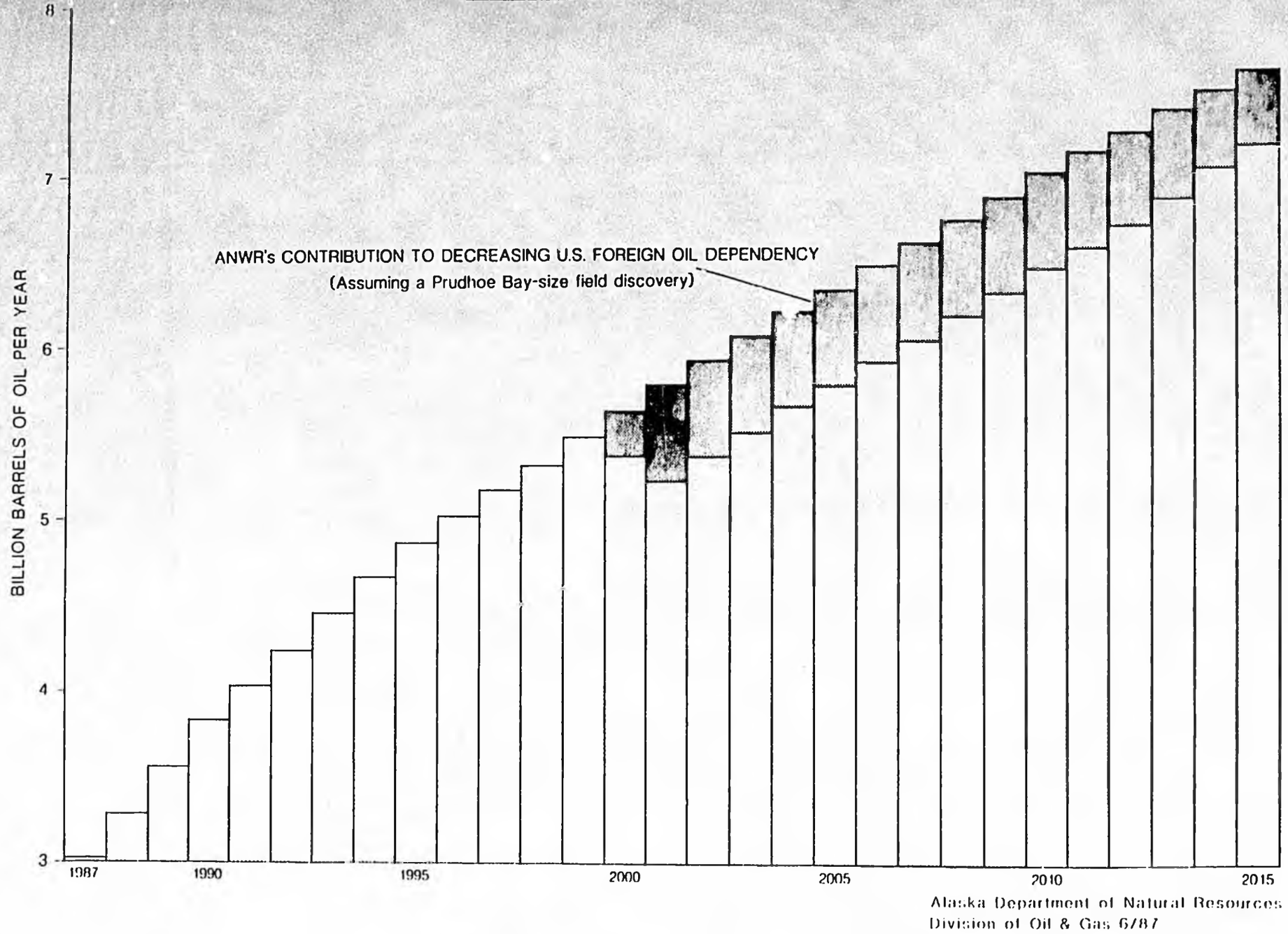


Figure 4. Projected U.S. Imported Oil.

1983 Kaktovik Subsurface Valuation

Fair Market Value	**$388,522,450**
Value Adjustments	
Value of State portion of Bonuses and Royalties	- $319,340,859
Adjustment for Probability of ANWR Closure	- $34,590,796
Adjustment for Probability of Chandler Lake Exchange Not Occurring	- $28,666,146
Final Value of Federal Interest	**$5,924,649**

DO&G 12/87

1983 ASRC Land Exchange

ASRC exchanged approximately 100,000 acres for subsurface rights to 92,000 acres in ANWR, valued by DOI at $5.9 million.

Agreement with Chevron Group

1. Chevron Group paid ASRC $25 million for the lease option.
2. Chevron Group will pay ASRC an additional $12 million if Congress opens ANWR.
3. ASRC will receive 20% royalty plus a net profit share on production from its lands.

DO&G 12/87

PROPOSED LAND EXCHANGES

1002 AREA

Beaufort Sea

3 Mile Limit

Camden Bay

TENNECO (Aurora)

Tago River #1(KIC)

Arctic Village

Atigun River

DOYON

GANA

KOPPNG

MLG

AKI

OH

EXPLANATION

Native Corporation	Industry Partners
AHKIOK-KAGUYAK (AKI)	AMOCO, SHELL
DOYON	ARCO
GANA-A'YOO (GANA)	ARCO
KONIAG	CHEVRON GROUP PHILLIPS
NATIVE LANDS GROUP (NLG)	CONOCO, EXXON
OLD HARBOR (OH)	TEXACO

Dollar Value Per Acre	
$$$	$19,000–$34,000
$$	$301–$8,100
$	$300(Minimum Bid)
	ASRC/KIC Lands
	Seismically mapped prospects

148° 00'

145° 00'

144° 00'

143° 00'

ANWR LAND EXCHANGES:

NEGOTIATED vs APPRAISED VALUES FOR NATIVE CORPORATION LANDS

Corporation	Acreage	Appraised Dollar per Acre	Negotiated Dollar per Acre	Percent Increase Above Appraised Value
Akhiok-Kaguyak	115,947	$215.15	$647.27	201%
Doyon	220,545	$63.82	$551.8	765%
Gana-a'Yoo	57,397	$71.79	$610.33	750%
Koniag	112,564	$162.58	$687.99	323%
Native Lands Group	298,815	$161.56	$616.14	281%
Old Harbor	90,355	$101.79	$506.16	397%

DO&G 12/87

The ANWR Land Exchanges

Valued by DOI to be $538.7 million

Exchanged

166,000 Acres – Subsurface Oil and Gas Rights in ANWR

For

891,000 Acres – Surface Only Inholdings in Alaska Refuges

Valuation Problems

1) ANCSA – Sec. 22(g)
2) Retained Subsurface Rights
3) Retained Subsistence Access in Perpetuity
4) ANCSA – Sec. 7(i) – No 70% Revenue Share

DO&G 12/87

Beaufort Sea

3 Mile Limit

Canning River

Camden Bay

TENNECO (Aurora)

Sago River #1(KIC)

1002 AREA

EXPLANATION

Native Corporation	Industry Partners
AHKIOK-KAGUYAK (AKI)	AMOCO, SHELL
DOYON	ARCO
GANA-A'YOO (GANA)	ARCO
KONIAG	CHEVRON GROUP PHILLIPS
NATIVE LANDS GROUP (NLG)	CONOCO, EXXON
OLD HARBOR (OH)	TEXACO

Dollar Value Per Acre	
$$$	$18,000-$34,000
$$	$301-$8,100
$	$300(Minimum Bid)
	ASRC/KIC Lands
	Seismically mapped prospects

PROPOSED LAND EXCHANGES:
DEPARTMENT OF THE INTERIOR INTERPRETATION

November 1987

148° 00'

145° 00'

144° 00'

143° 00'

Beaufort Sea

Camden Bay

3 Mile Limit

TEXACO (Aurora)

1002 AREA

EXPLANATION

Native Corporation	Industry Partners
AHKIOK-KAGUYAK (AKI)	AMOCO, SHELL
DOYON	ARCO
GANA-A'YOO (GANA)	ARCO
KONIAG	CHEVRON GROUP PHILLIPS
NATIVE LANDS GROUP (NLG)	CONOCO, EXXON
OLD HARBOR (OH)	TEXACO

Dollar Value Per Acre

- $18,000–$34,000
- $301–$8,100
- $300(Minimum Bid)
- ASRC/KIC Lands
- Trends of highly deformed Mesozoic and Tertiary rocks
- Primary structural highs

PROPOSED LAND EXCHANGES: DEPARTMENT OF THE INTERIOR INTERPRETATION

November 1987

Old Harbor Native Corporation Land Exchange

1. Old Harbor exchanges 90,000 acres for 58,000 acres in ANWR, valued by DOI at $45.7 million.

2. Old Harbor retains easement and subsistence rights to the 90,000 acres.

Agreement with Texaco

1. Texaco pays Old Harbor $45.7 million for the lease option.

2. Old Harbor receives 14% royalty on production from its leases and 1.5% royalty from production on any other Texaco leases in ANWR.

DO&G 12/87

Koniag, Inc. Land Exchange

1. Koniag exchanges 112,564 acres for 3,186 acres in ANWR, valued by DOI at $77.4 million.

2. Koniag retains easement and subsistence rights to the 112,564 acres.

Agreement with Chevron/Phillips

1. Chevron Group pays Koniag $58.3 million for the lease option.

2. Koniag receives 20% royalty on production from its leases and royalties from certain other Chevron Group leases in ANWR.

3. 20% royalty can ultimately be converted to a 40% net profit share.

DO&G 12/87

OCS SALE 71 - OCTOBER 1982

Tract	Lessee	Bonus	Royalty
71-Y-332	MOBIL/TENNECO	$71,793,250	16 2/3%
71-Y-333	MOBIL	$148,871,130	16 2/3%
71-Y-334	MOBIL/SOHIO	$227,173,250	16 2/3%
71-Y-335	SHELL	$113,456,000	16 2/3%
71-Y-342	TEXACO, et al.	$168,118,272	16 2/3%
71-Y-343	MOBIL	$136,637,450	16 2/3%
71-Y-344	TEXACO, et al.	$219,117,312	16 2/3%
71-Y-345	MOBIL, CHEVRON, et al.	$193,579,570	16 2/3%
	Total Bonus	**$1,278,746,234**	

DO&G 12/87

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 7, 1987

The Honorable Robert C. Byrd
United States Senate
Washington, DC 20510-4801

Dear Senator Byrd:

Whether to permit oil and gas development on the Arctic National Wildlife Refuge (ANWR) is a major issue before the 100th Congress. The purpose of this letter is to set forth facts regarding ANWR development and to share the perspective of the State of Alaska on this matter.

Located in the northeastern corner of Alaska, ANWR comprises 19 million acres. The only area that would be open to oil and gas activity is the 1.5 million-acre coastal plain, or 8 percent of ANWR. However, according to the Interior Department, only 12,000 acres (less than 20 square miles) is likely to be affected by development. This area comprises only 0.8 percent of the coastal plain and 0.06 percent of ANWR.

Although there has been much debate about designating ANWR lands as wilderness, it should be noted that 42 percent of ANWR (8 million acres) is already established as wilderness. Included in this wilderness are 450,000 acres of the coastal plain and 30 miles of coastline. The 450,000-acre coastal plain wilderness adjoins Canada's 3 million-acre Yukon National Park.

The ANWR coastal plain lies between the oil-and-gas rich Canadian MacKenzie Delta and Prudhoe Bay. The Interior Department estimates there is a 5 percent chance of finding at least 9.2 billion barrels of recoverable oil under the coastal plain, perhaps the largest oil discovery in U.S. history. Thomas Marshall, a well-known Alaskan geologist who conducted a private study for the National Wildlife Federation, concluded that the federal estimates of hydrocarbon potential are conservative.

Equally important to the environment is the manner in which development and production wastes would be disposed of. Time and experience with waste management in the Arctic over the last 20 years have provided vastly improved technology and management techniques. The state believes that the track records of both the industry and the government regarding development and the regulation of development on the North Slope provide a good foundation for opening ANWR to responsible oil and gas development, and we can assure you that Congress has at its disposal the technology and the regulatory tools necessary to protect the coastal plain's environment.

An essential element of any approach to mitigating impacts on fish and wildlife, as well as protecting the area's environmental quality, is cooperation between the federal and state governments and the industry. To this end, we believe that Congress should establish a joint state/federal interdisciplinary team to oversee and participate in project planning, project design review, permit actions, field monitoring and compliance. Similar joint state/federal teams have been used successfully in Alaska for large scale development projects such as the Trans-Alaska oil pipeline system and the preconstruction phase of the Alaska Natural Gas Transportation System.

Related to the issue of development is the matter of revenue disposition. The Alaska Statehood Act gives Alaska 90 percent of government revenues for mineral leasing on federal lands in Alaska. Congress approved the 90 percent allocation to compensate for the vast amount of land retained in federal ownership. This allocation to Alaska is consistent with allocations to other states. The Mineral Leasing Act of 1920 provides that 90 percent of government revenues from oil and gas leasing on public lands accrue to the states. In the lower 48 states, this dedication takes the form of a direct grant of 50 percent and a deposit of 40 percent in the Reclamation Fund, which is used to the benefit of the states.

It has been suggested that if ANWR is developed, the State of Alaska receive only 50 percent of the government revenues from mineral leasing. Not only would this treat Alaska differently from other states, but it would violate the Alaska Statehood Act. In Beecher v. Wetherby, 95 U.S.517, the Supreme Court ruled that an Act admitting a state is a specific compact between the United States and the new state and each term contained in the compact represents "an

For these reasons, the state believes that the proposed land exchanges be postponed until such time as the value of the land being exchanged can be determined with better certainty.

The state firmly believes that the coastal plain has the tremendous potential to contribute to this Nation's economic strength and energy security. If we work together, legislation can be passed that will open the area to exploration, development, and production. At the same time, we can provide the environmental measures necessary to protect and preserve the natural resources in the area. The State of Alaska strongly supports the opening of the 1002 area.

Thank you for your consideration of my views.

Sincerely,

Steve Cowper
Governor

SC/RS/sk/ss

1016

STATE OF ALASKA

OFFICE OF THE GOVERNOR
JUNEAU

STEVE COWPER
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT
David Ramseur
Press Secretary

Laury Roberts Scandling
Deputy Press Secretary

Office of the Governor
Box A, Juneau, AK 99811

Bus. Phone (907) 465-3500

FOR IMMEDIATE RELEASE
Feb. 15, 1988

COWPER COMMENTS ON ANWR LAND TRADES

JUNEAU--Gov. Steve Cowper today issued the following statement about proposed ANWR land trades:

"We've been working for more than a year to open ANWR to responsible development. We can't afford for that effort to be sidelined by a special deal for a handful of companies. The proposed land trades may be in the best interest of a few corporations and oil companies, but they are not in the best interest of all Alaskans."

-30-

NEWS RELEASE

OFFICE OF THE GOVERNOR
JUNEAU

STEVE COWPER
GOVERNOR

David Ramseur
Press Secretary

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Deputy Press Secretary

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-30-

October 28, 1987

The Honorable Donald P. Hodel
Secretary
Department of the Interior
Room 6151
C St. between 18th and 19th Sts., NW
Washington, DC

Dear Mr. Secretary:

During our meeting last winter in Washington, D.C., we discussed the future of the Arctic National Wildlife Refuge (ANWR). As you recall, I shared with you my assessment that the proposed ANWR land exchanges between the department and various Alaska Native corporations are not in the national or state interest.

Since our meeting, your subordinates have continued to advance the trade proposals, including participation in an ANWR tract selection and award process during early July. This tract selection process awarded the participant Native corporations more than 166,000 acres of limited oil and gas interests in ANWR, valued by the department at approximately $538.7 million.

Based upon information regarding the selection process recently provided by the department, the State of Alaska continues to view the proposed trades as adverse to the public interest. Furthermore, as evidenced by recent events during congressional committee hearings on ANWR, the spectre of these trades continues to divert attention and hinder our mutual goal of opening ANWR to responsible petroleum production.

In order that there be no confusion regarding our stance in response to the proposed trades, I have outlined below the problem areas of greatest concern to the state.

First, I am concerned that the exchanges divert attention from the central issue of opening the Arctic National Wildlife Refuge. At least one U.S. Senator has said that his position on the central issue of opening ANWR would be decided on the issue of the land trades and that he would oppose development if the legislation included the exchanges. Precious time which could be spent on examining the relationship of ANWR to energy security has already been

lost as the key committees have responded to the land trades. Legislation in both houses clarifying congressional authority regarding the approval of the exchanges is the most tangible reflection of this diversion.

Given these uncertainties, I believe that the best way to ensure that the public receives proper compensation for the trade of specific tracts is to follow the competitive leasing process prescribed in the 1920 Mineral Leasing Act. Under this Act, competition and the system of royalties ensures that the public will be adequately compensated for the resources which have been leased.

Second, the exchanges propose to trade known surface values for unknown but highly prospective subsurface values. Although available seismic data indicate that ANWR is the most promising oil and gas frontier area in North America, these data are inadequate for purposes of a land exchange involving individual tract valuation. As a result, it is possible that extremely valuable tracts will be traded for inadequate compensation. Senator Johnston expressed this concern best when he said recently that he could not support this proposal because in the event that oil was discovered, he would be unable to explain why the U.S. exchanged mineral rights worth billions of dollars for land worth millions of dollars.

Further, I believe the public may well have been short-changed by the department's failure to also acquire Native owned subsurface estate (where available) as part of the proposed land trade. The retention by the Natives of the subsurface estate guarantees them the right to reasonable access and extraction of any minerals which may be present. This may well negate some of the public benefits claimed as a result of the proposal.

Finally, the proposed trades would unfairly deny the state its share of revenue under the 1920 Mineral Leasing Act. It is important to note that in 1983 the department traded subsurface lands in ANWR estimated as being worth $5.6 million to the Arctic Slope Regional Corporation. As a result, the state received absolutely no consideration and as recent events evolve, the federal government may well have significantly undervalued this acreage to the detriment of the public.

Last summer, my administration outlined an alternative process to the current trade proposal. Our alternative is but one method by which the department could employ the

usual competitive leasing process and still acquire the Native corporation refuge inholdings. Specifically, this alternative would award bid credits to the corporations equal to the value established by the department for their refuge inholdings. Each corporation could then use these credits to bid (as if they were actual dollars) in any competitive federal oil and gas lease sale (including those offshore or outside Alaska), or they might be independently sold to the highest bidder.

Although encouraged by your decision to temporarily put the entire exchange matter on hold, I sense that you intend to continue the process following further congressional briefings. While I would prefer that you end the process altogether, I am encouraged by your temporary hold order, as well as your public assurances that the trades will not be concluded administratively. I believe any attempt by the department to approve these trades administratively will only generate renewed enthusiasm and momentum for the ANWR wilderness bill.

In conclusion, I believe that the proposed trades hurt the national and state's interests, as well as our collective efforts to obtain congressional authorization for opening ANWR. Therefore, I support your decision to put this process on hold and strongly urge you to take no further action which would cloud the ANWR debate.

Sincerely,

S/S Steve Cowper

Steve Cowper
Governor

cc: Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young

SC/GG/j 100802

Commr Brady
AK DNR
4/23/87

ISSUES REGARDING ANWR LAND TRADES

I. Any discussion of land trades must acknowledge that the fundamental goal is the opening of ANWR to responsible oil and gas exploration and development.

II. Land trades must facilitate the opening of ANWR and not be counterproductive, requiring that certain criteria be met.

A. Any land trades must embody "good government" principles.

1. The process must be open, not secret.

2. All interested parties must be represented, including the state, Native corporations, conservation groups, the oil industry and the Department of the Interior.

3. Fair value must be received by all parties; the procedures used to establish the value of exchange lands must be technically defensible and public while subsurface values in ANWR should be determined competitively in an open and free market.

4. Environmentally and economically prudent development of ANWR oil and gas tracts must be ensured.

5. To the extent practicable, land trades should be compatible with proven administrative leasing procedures developed under the Mineral Leasing Act of 1920 and not require development of new, ad hoc procedures applicable only to ANWR.

6. Any land trades should reflect basic principles of federalism and not preempt traditional state police power jurisdiction.

B. Land trades must maximize the benefits received by all of those concerned.

1. The state's interest in preserving revenues which would automatically come to the state under existing law -- i.e., the Mineral Leasing Act 90-10 revenue split -- must be recognized.

2. All Native corporations should benefit from any trades involving Native subsurface acreage through incorporation of the revenue sharing procedures in section 7(i) of the Alaska Native Claims Settlement Act (ANCSA).

3. The national interest (including the interests of conservation groups and the Department of the Interior (1) should be maximized by including

inholdings in parks and other conservation system units as well as wildlife refuges, and (2) must be fully protected by including the subsurface estate in the lands exchanged.

4. The entire oil and gas industry should be provided equal opportunities to participate through competitive leasing of lands in ANWR so that some industry participants do not have a preferred position relative to others by virtue of their participation in a noncompetitive process.

5. The Department of the Interior's interest should be maximized by (1) ensuring accurate valuation of exchanged lands, (2) maximizing free market competition for ANWR oil and gas tracts, and (3) eliminating private inholdings in all types of conservation system units, not just wildlife refuges.

C. Land trades must not adversely impact the primary goal of opening ANWR.

1. The process leading to any land trades must be open and beyond reproach.

2. Land trades must have benefits for all of those concerned.

3. The process leading to any land trades, and the land trades themselves must not divert attention from the primary goal of opening ANWR.

4. Because Congress will make the ultimate decision both on opening ANWR and on any land trades, we must at all times be sensitive to Congressional concerns.

5. In terms of timing, land trades must not be consummated prior to a Congressional decision to open ANWR.

III. Both the process and the product of the current Bill Horn approach to land trades are seriously deficient.

A. They do not satisfy the "good government" test.

1. Negotiations have been conducted in secret, not in an open public forum.

2. Not all interested parties have been represented.

3. Substantial questions exist with respect to the value determination procedures for both exchange lands and ANWR tracts.

   a. While fair market value appraisals were done for all proposed exchange lands, Interior is not using those values but instead is using an arbitrary alternative valuation methodology.

   b. When competitively leasing prospective oil and gas tracts, Interior determines potential tract values from a one mile square seismic grid and at least one off-structure stratigraphic test well; the ANWR seismic grid is three miles by six miles and Interior has no test well data.

4. Environmentally and economically imprudent development of ANWR oil and gas potential will result.

   a. "Checkerboard" ownership patterns in ANWR will make environmental regulation of exploration and development activities more difficult than uniform federal ownership and administration of a competitive leasing system.

b. Exploratory drilling on privately-owned ANWR inholdings probably would occur significantly in advance of federal leasing of remaining tracts, with a substantial likelihood that those remaining tracts would be significantly devalued (economically condemned).

5. An entire new set of untested, ad hoc "exchange" procedures is being developed, procedures which are not compatible with those developed and administered for the past 67 years under the Mineral Leasing Act of 1920.

6. Significant federalism issues are presented regarding the state's sovereign police power jurisdiction with respect to fish and game management, environmental protection and oil and gas conservation.

B. Not all of those concerned will benefit.

1. The state would lose all mineral sharing revenues from ANWR tracts obtained by Native corporations.

2. Not all Native corporations will receive benefits because not all Native corporations are

participating in the proposed trades and section 7(i) of ANCSA does not apply.

3. The current proposal does not include park and other conservation system unit inholdings and does not include any subsurface acreage.

4. Only pre-determined members of the oil industry will benefit through partnership with participating Native corporations, and their benefits will be unjustifiably enhanced by obtaining the right to explore and develop ANWR tracts through a non-competitive process.

5. The Department of the Interior will obtain only wildlife refuge inholdings, will not obtain significant subsurface acreage, and may not obtain full value because of inaccurate valuation procedures.

C. Most significantly, the Bill Horn approach will adversely impact the primary goal of opening ANWR.

1. Severe criticism can be expected on the ground that principles of "good government" have not been followed.

2. Not all of those concerned will benefit.

3. At minimum, significant controversy over land trades will be created, diverting attention from the primary goal of opening ANWR.

4. In terms of sensitivity to Congressional concerns, the continued development of this proposal has been directly contrary to the express desires of several influential Congressmen (Senators Bumpers, Bradley, Leahy, Proxmire, Rockefeller, Moynihan, Levin, Metzenbaum, Simon and Gore, as well as former Senator Hart) and could be viewed as an attempt to usurp Congressional prerogatives.

5. The land trades will be consummated before Congress even begins serious consideration of opening ANWR.

IV. There is at least one alternative land trade proposal which would satisfy all the necessary criteria.

A. The proposal in a nutshell.

1. Following Congressional opening of ANWR, the Department of Interior would competitively lease tracts in ANWR.

2. Prior to such leasing, trade participant inholdings (both surface and subsurface) in conservation system units (including wildlife refuges and park system units) would be exchanged for bid credits which could be used in bidding at competitive lease sales in ANWR (and possibly elsewhere).

(i) The amount of bid credits would equal the value of the exchanged inholdings.

(ii) Bid credits could be used at competitive ANWR lease sales (and possibly at other federal lease sales) in lieu of cash up to a predetermined percentage of any bonus bid.

(iii) One Native corporation's bid credits could be pooled with other Native corporations' bid credits and cash to maximize economic competitiveness at any lease sale.

B. This proposal could be developed and implemented according to "good government" principles.

1. The proposal would be further developed in an open process, not a secret one.

2. All interested parties could participate in development of the proposal.

3. Valuation of inholdings would occur under a process similar to the one developed for the Bill Horn proposal, but in a public setting and not a secret one; valuation for ANWR oil and gas tracts would be true fair market value because it would result from competitive bidding.

4. This proposal would ensure environmentally and economically prudent development.

   a. The federal government would continue to own all of ANWR, making it subject to uniform federal administration under well-established administrative leasing procedures developed under the Mineral Leasing Act and avoiding problems created by "checkerboard" ownership.

   b. Because the federal government would competitively lease all of the ANWR acreage opened to leasing by Congress, there would be no early exploratory drilling on a few tracts affecting the value of remaining tracts.

5. No new ad hoc procedures would have to be developed because leasing would occur under the administrative procedures implementing the Mineral Leasing Act of 1920.

6. Principles of federalism would be honored because the state would retain the same sovereign state police power jurisdiction over ANWR lands that it currently has.

D. All of those concerned would benefit from this proposal.

1. While the state would not receive its 90 percent share of those portions of successful bonus bids comprised of bid credits, it would receive its 90 percent share of the cash portions of all successful bonus bids and would receive its 90 percent share of all rentals and production royalties.

2. While Native corporations participating in the land trades would not be assured of getting tracts in ANWR, they would receive fair value for their inholdings and could maximize their economic competitiveness by pooling bid credits or, alternatively, they could sell their bid credits to oil companies; non-participating Native corporations

would receive benefits under section 7(i) of ANCSA.

3. The nation, including environmental groups and the Department of Interior, would benefit by eliminating both surface and subsurface inholdings in a number of conservation system units, including both park system units and wildlife refuges.

4. The oil industry would benefit because all members of the industry would participate on an equal basis at competitive lease sales.

5. The Department of the Interior would benefit because it would be getting full value for the ANWR oil and gas tracts leased.

D. This proposal would not adversely impact the primary goal of opening ANWR.

1. The process would be beyond reproach.

2. Benefits would be received by all of those concerned.

3. Development of this proposal would not divert attention from the primary goal of opening ANWR.

4. This proposal would acknowledge the political sensitivity of Congress and, because it would be beyond reproach in terms of "good government" principles, would not have adverse political repercussions.

5. Trades would occur after Congress made its decision on opening ANWR.

Issues Regarding ANWR Land Trades

Basic Criteria

Any Land trades must facilitate the opening of ANWR and not be counterproductive; to accomplish that, certain criteria must be met:

A. Any land trades must be developed through "good government" principles.

1. The process must be open.
2. All interested parties must be represented.
3. Fair value must be received by all parties.
4. The result of any land trades must ensure environmentally and economically prudent development of ANWR.
5. Trades should be compatible with Mineral Leasing Act procedures and not require development of new, untested ad hoc procedures.
6. Sovereign state jurisdiction must not be preempted.

B. Land trades must maximize benefits received by all those concerned.

1. The state's interest in revenues coming to the state under existing law must be recognized.
2. All Native corporations should benefit through revenue sharing under section 7 of ANCSA.
3. Conservation groups' interest (1) should be maximized by eliminating inholdings in parks and other conservation system units as well as game refuges, and (2) should include the subsurface estate in the lands exchanged.
4. All oil companies should be given an equal opportunity to participate through competitive leasing of lands in ANWR.
5. Interior's interest should be maximized by (1) ensuring accurate valuation of exchanged lands, (2) promoting free market competition for ANWR oil and gas tracts, and (3) eliminating inholdings in all types of conservation system units.

C. Land trades must not adversly impact the primary goal of opening ANWR.

1. The process leading to any land trades must be beyond reproach.
2. Land trades must have benefits for all those concerned.
3. The process leading to any land trades, and the land trades themselves, must not divert attention from the primary goal of opening ANWR.
4. Because Congress will make the final decision both on opening ANWR and on any land trades, Congressional prerogatives must not be preempted.
5. In terms of timing, any land trades must follow the Congressional decisions on opening ANWR.

Bill Horn Proposal

Both the process and the product of the current Bill Horn approach to land trades -- closed negotiations without all interested parties leading to noncompetitive exchanges of surface acreage for oil and gas interests -- are seriously deficient.

A. They do not satisfy the "good government" test.

1. Negotiations have been conducted in secret.
2. All interested parties have not been represented.
3. Substantial questions remain regarding assignment of dollar values to both inholdings and ANWR oil and gas tracts..
4. Imprudent development of ANWR oil and gas tracts will result.
   (a) "Checkerboard" ownership patterns in ANWR will make environmental regulation of exploration and development more difficult.
   (b) Exploratory drilling on privately-owned ANWR inholdings in advance of federal leasing of remaining tracts would probably devalue (economically condemn) those remaining tracts.
5. Untested ad hoc valuation and conveyance procedures are being developed.
6. Federalism issues are presented because sovereign state jurisdiction may be preempted.

B. Not all of those concerned will benefit.

1. The state would lose all revenues from ANWR tracts obtained by Native corporations.
2. Not all Native corporations will receive benefits.
3. Park and other conservation system unit inholdings and subsurface inholdings are not included.
4. Only a few members of the oil industry will benefit, and their benefits will be unjustifiably enhanced through a noncompetitive process.
5. Interior will obtain only refuge inholdings, no subsurface acreage, and may not obtain full value because of inaccurate tract valuations.

C. Most significantly, the Bill Horn approach will adversly impact the primary goal of opening ANWR.

1. Severe criticism can be expected on the ground that principles of "good government" have not been followed.
2. Not all those concerned will benefit.
3. Significant controversy over land trades will be created, diverting attention from the primary goal of opening ANWR.
4. The continued development of this proposal has been directly contrary to the express desires of several influential Senators and could be viewed as an attempt to usurp Congressional prerogatives.
5. Exchange agreements will be finalized prior to Congressional consideration of opening ANWR.

STATE POSITION ON TRADES 4/87

Issues Regarding ANWR Land Trades

Basic Criteria

Any land trades must facilitate the opening of ANWR and not be counterproductive; to accomplish that, certain criteria must be met.

A. Any land trades must be developed through "good government" principles.

1. The process must be open.
2. All interested parties must be represented.
3. Fair value must be received by all parties.
4. The result of any land trades must ensure environmentally and economically prudent development of ANWR.
5. Trades should be compatible with Mineral Leasing Act procedures and not require development of new, untested ad hoc procedures.
6. Sovereign state jurisdiction must not be preempted.

B. Land trades must maximize benefits received by all those concerned.

1. The state's interest in revenues coming to the state under existing law must be recognized.
2. All Native corporations should benefit through revenue sharing under section 7(i) of ANCSA.
3. Conservation groups' interest (1) should be maximized by eliminating inholdings in parks and other conservation system units as well as game refuges, and (2) should include the subsurface estate in the lands exchanged.
4. All oil companies should be given an equal opportunity to participate through competitive leasing of lands in ANWR.
5. Interior's interest should be maximized by (1) ensuring accurate valuation of exchanged lands, (2) promoting free market competition for ANWR oil and gas tracts, and (3) eliminating inholdings in all types of conservation system units.

C. Land trades must not adversely impact the primary goal of opening ANWR.

1. The process leading to any land trades must be beyond reproach.
2. Land trades must have benefits for all those concerned.
3. The process leading to any land trades, and the land trades themselves, must not divert attention from the primary goal of opening ANWR.
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   (a) "Checkerboard" ownership patterns in ANWR will make environmental regulation of exploration and development more difficult.
   (b) Exploratory drilling on privately-owned ANWR inholdings in advance of federal leasing of remaining tracts would probably devalue (economically condemn) those remaining tracts.
5. Untested ad hoc valuation and conveyance procedures are being developed.
6. Federalism issues are presented because sovereign state jurisdiction may be preempted.

B. Not all of those concerned will benefit.

1. The state would lose all mineral sharing revenues from ANWR tracts obtained by Native corporations.
2. Not all Native corporations will receive benefits.
3. Park and other conservation system unit inholdings and subsurface inholdings are not included.
4. Only a few members of the oil industry will benefit, and their benefits will be unjustifiably enhanced through a noncompetitive process.
5. Interior will obtain only refuge inholdings, no subsurface acreage, and may not obtain full value because of inaccurate tract valuations.

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4. The continued development of this proposal has been directly contrary to the express desires of several influential Senators and could be viewed as an attempt to usurp Congressional prerogatives.
5. Exchange agreements will be finalized prior to Congressional action on opening ANWR.

A Preferable Alternative

At least one alternative land trade proposal -- exchanging surface and subsurface inholdings for bid credits which would be used at competitive lease sales -- would satisfy all the necessary criteria.

A. The proposal would satisfy "good government" principles.

1. It would be developed in an open process.
2. All interested parties would participate in development of the proposal.
3. Valuation of inholdings would be similar to the Bill Horn process, but in a public setting; the value received for oil and gas tracts would be true fair market value resulting from competitive bidding.
4. This proposal would ensure environmentally and economically prudent development
   (a) ANWR would be subject to uniform federal administration under well-established leasing procedures, avoiding "checkerboard" ownership.
   (b) There would be no early exploratory drilling on a few tracts, affecting the value of remaining tracts.
5. No new ad hoc procedures would have to be developed.
6. No sovereign state jurisdiction would be preempted.

B. All those concerned would benefit.

1. While the state would not receive its 90% share of those portions of successful bonus bids comprised of bid credits, it would receive its 90% share of the cash portions of successful bonus bids and would receive its 90% share of all rentals and production royalties.
2. Native corporations participating in the land trades would receive fair value for their inholdings; non-participating Native corporations would receive benefits under section 7(i) of ANCSA.
3. Conservation groups would benefit by eliminating both surface and subsurface inholdings in a number of conservation system units, including both park system units and refuges.
4. The oil industry would benefit because all members of the industry would participate on an equal basis at competitive lease sales.
5. Interior would benefit because it would be getting full value for the ANWR oil and gas tracts leased.

C. This proposal would not adversly impact the primary goal of opening ANWR.

1. The process would be beyond reproach.
2. All those concerned would benefit.
3. Development of this proposal would not divert attention from the primary goal of opening ANWR.
4. This proposal would not have adverse political repercussions.
5. Trades would occur after Congress made its decision on opening ANWR.

REASONS FOR STATE WITHDRAWAL FROM PROPOSED ANWR LAND TRADES (3/20/87)

The governor has reviewed the trade proposal in the context of the state as both proprietor and sovereign. On both counts he has concluded that the trades, in their present format, do not properly address or protect state interests. More specifically, the trades present the following concerns and problems.

1. Congress is solely responsible for the ultimate decisions on whether any land trades will proceed. Based upon discussions with Congressional leaders and staff in Washington, D.C., the governor has concluded there is not widespread support for the trades in Congress. The Congressional forum will give the state adequate opportunity to protect its interests, should the proposed trades continue.

2. The proposed trades may have an adverse influence upon the state's paramount ANWR objective: to achieve Congressional approval for opening the 1002 area to oil and gas exploration and development. Rather, the state's efforts should be directed towards facilitating the ANWR opening process, through implementation of the governor's advocacy program. The trades add a layer of unnecessary complexity to the process.

3. The exchanges increase the risk that subsequent federal lease sale bonus bids will be devalued. Based upon industry information, Native corporations could select and obtain the most economically valuable tracts through the proposed trades. As a result, exploration would likely get underway earlier in these areas than on surrounding land retained by the federal government. Therefore, bonus bids on the remaining federal tracts would probably be deflated (with corresponding loss to state revenues) if there were dry holes. It is inappropriate to gamble with state resources based upon the available information.

4. The timing of the proposed trade is premature. If any trades are to occur, they should only be pursued after Congress acts to open the 1002 area. The present trade schedule calls for agreements in principle (on contract and land stipulations) and ANWR tract selection to occur before congressional action on ANWR and perhaps before the Secretary makes his final 1002 recommendation to Congress. At the time the state withdrew from the negotiation table, tract selection was expected within a matter of weeks.

5. The state participated until recently in the trade negotiations to ascertain whether the trades might be structured in a manner which meets state interests and objectives. While the state's participation was somewhat successful in enhancing our information base, the state returned from the negotiation table convinced that under the current terms and timeframe, it would be impossible to sufficiently alter the process to meet state objectives. Although the state achieved some progress with respect to the size and value of the state lands proposed for trade (the size of the state trade package tripled), the Department of the Interior was unwilling to accede on several fundamental issues, including an overriding state royalty.

6. Land exchanges in ANWR would preempt state revenues. Under existing law, the State of Alaska is entitled to 90 percent of all revenues derived from federal oil and gas leasing in national wildlife refuges (including ANWR). The exchange of ANWR oil and gas interests to Native corporations would remove these interests from federal ownership and bar the state from any revenue sharing since these areas would not be leased by the federal government. The state has consistently maintained that the 90 percent revenue share allocation must be protected.

7. The exchanges do not appear to be subject to the revenue sharing provision contained in Section 7(i) of ANCSA. Section 7(i) requires that 70 percent of all revenue obtained by regional corporation management of the subsurface land estate be redistributed equally among all 12 ANCSA regional corporations. Because the proposed trades do not involve any regional subsurface estate, it does not appear that Section 7(i) would apply. This means the trades would benefit only those corporations which participate.

8. There simply is not enough reliable subsurface data available in the 1002 area upon which to adequately base subsurface values for purposes of an exchange. The seismic grid surveys completed during the winters of 1983-84 and 1984-85 are too gross to be very meaningful. These data area simply inadequate to delineate the presence of potential oil fields the size of Milne Point or Duck Island. Furthermore, it is known that at least two of the five Native corporation trade participants have the KIC well information. Although the AOGCC also has this information, it must remain confidential and unavailable for either the state or federal government. Therefore, it is inappropriate to juxtapose known surface values for speculative ANWR subsurface values.

9. The Department of the Interior proposes to exchange ANWR oil and gas tracts to Native corporations where the State of Alaska has title claims to the beds of navigable waterbodies. In addition, the Native corporations propose to trade the Department of the Interior submerged lands to where there have been no navigability determinations. Therefore, it is quite likely that the Natives will be trading some land, and receiving corresponding value, which may ultimately belong to the state.

COWPER ON T
2/87

Statement of Governor Steve Cowper
on ANWR Land Trades
February 27, 1987

Yesterday I returned from five days in Washington, D.C. during which I met with a number of federal officials including Interior Secretary Donald Hodel and several members of Congress. One purpose of my trip was to get the Washington perspective on possible development of the Arctic National Wildlife Refuge.

I left Washington with several impressions. But the one I want to announce here today is that I'm convinced that the proposed land exchanges are premature, that they may well adversely impact the interests of the state and that they create divisions among Alaskans at a time when all of us should be focusing on establishing a responsible method of opening the arctic coastal plain to oil and gas development.

The state has participated in these land trade negotiations in good faith to determine whether it was possible to structure the trades in a manner favorable to state and national interests. I am now convinced that's not possible under current circumstances. Therefore, I have directed the state's representatives to withdraw from negotiations.

(1) Here's why I've made this decision. First, land trades add a layer of complexity to the ANWR issue. By further complicating this already difficult matter, Congressional attention is diverted from the State's central concern which is the opening of the refuge. Response from a number of Congressional observers of the land trade process confirm this judgement.

Second, the State and federal government's understanding of the actual location and value of the petroleum reserves is not good enough to assure that either the State will obtain desirable lands, or that highly prospective tracts are not traded away without sufficient compensation. The fact that some of the corporations involved in the trades have access to additional data which the state does not have, makes these risks even greater. While, I might be willing to take such risks as the executive officer of a private company, I feel (2a) that such a gamble is not appropriate for a public official acting on behalf of the citizens of Alaska.

(2b) Another major factor to consider is that land exchanges are not in the best interest of the broadest spectrum of Alaskans. Under the Statehood Act and the 1920 Mineral Leasing Act, Alaska would receive 90 percent of the governmental share of royalties, bonuses and rentals derived from any oil and gas produced from federal land in ANWR. Whatever revenue is derived from ANWR development should go into the state's general treasury to benefit all Alaskans. The state would not receive its share of royalties, bonuses and rentals from land conveyed to private ownership through land exchanges.

(3) Third, for both of the above reasons, land exchanges are premature and should await Congress's action on the central issue and a better understanding of the coastal plain's subsurface value. In addition, consideration of the issue in the proper time sequence would resolve a number of other questions regarding the areas that will be open for development and the regulatory conditions which will apply.

I'm certainly sensitive to the interests of the Native corporations which have been participating in these land trade negotiations. But as governor, I must protect the interests of the entire state. That's why I'm taking this position today. At such time as the state is privy to the same information as the other parties, we would be open to further negotiations to establish an ownership mix that is in the best interests of all Alaskans.

Thank you and I'll be happy to answer questions about this issue or any other.

-30-

Chairman Cotten, members of the House Resources Committee. My name is Tom Hawkins and I am the director of the land and water management division in the Department of Natural Resources.

John Katz has delivered an accurate summary of the chronology of participation by the State of Alaska in the talks concerning the ANWR exchange. He has also usefully augmented Rod Swope's description of the state's policy position on these matters.

Our view is that if ANWR is to be opened by Congress both the executive branch and the Legislature must search for ways which enable Interior to pursue ALL of its goals. At this time they appear to be:

- Assuring environmentally sensitive oil and gas exploration and development on a portion of the Arctic coastal plain, and

- Enlarging the refuge system generally by reducing inholdings of non-federal land in that system.

Recognizing these goals we have advanced lands for possible inclusion in the refuge system in exchange for oil and gas rights, reviewed planning by Interior for the trades generally, met with the native participants, and avoided condemning the actions contemplated despite the loss of potential royalties to the state.

We have however raised what we consider to be substantial questions about the process for planning for these exchanges and criticized specific elements of these plans. I would like to discuss briefly 5 areas which deserve direct attention:

- Assuring sufficient state acreage is reviewed and approved by Interior for inclusion in the exchange to provide the state with a meaningful stake in the process;

- Improving the environmental stipulations and mitigation strategies so as to achieve a level of protection consonant with the values at risk;

- Analyzing the tract selection process and proposing alterations which improve objectivity and fairness and reduce discretion;

- Reforming the basic model contract to clarify the nature of oil and gas interests conveyed, improving its treatment of technical oil and gas issues, and assuring its consistency with current industry practices and standards;

- Encouraging Interior to maintain flexibility in its timelines so that our concerns can be judged on their merits and not summarily dismissed because of lack of time to allow their consideration.

A precise analysis of the principal instruments of the exchange plan was delivered to Interior in late December and early January. Copies of these submittals are in your packet. There has been one major negotiating session since that time and a number of individual meetings and information exchanges. We can report useful progress on some fronts and point to remaining problems in a number of areas.

After receiving Director Gilmore's invitation to participate in January, 1986 the Departments of Natural Resources and Fish and Game assembled a listing of nearly 12 million acres of land, primarily valuable for habitat purposes and presented it to the USF&WS. In March Gilmore responded specifically to that listing, prioritized its contents and expressed a desire to acquire about 100,000 acres. In the following months we explored ways to increase that approved acreage. As recently as yesterday the F&WS approved additions to the package which currently stands at 792,000 acres. In your packets is a generalized list of state owned and selected lands within and adjacent to refuges and those tracts approved for acquisition by the F&WS include numbers 1-11. The remaining parcels, including those lands owned by the state within the National Park System have not been accepted. It is our understanding that NPS, originally interested in the exchange plans, has withdrawn from active participation because of its unwillingness to endorse the oil and gas exploration and development these exchanges are meant to facilitate.

In short we've made substantial progress in our efforts to improve the size of the state's participation. While we have completed fair market appraisals of all of the land on the list we submitted and believe that addition of the other parcels would improve the marketability of the overall exchange project we are generally pleased with the approved list.

Another important accomplishment lies in the area of environmental stipulations and mitigation strategies. The State of Alaska has more than 20 years experience in the design of environmental stipulations for oil and gas exploration and development in arctic and subarctic areas and based on that experience ADEC, ADF&G and ADNR had significant concerns about the environmental package prepared by Interior. Modeled after the Kaktovik exploration stipulations the original package did not assure

that environmentally sensitive oil and gas exploration and development would occur in the arctic coastal plain. The state invested considerable energy suggesting modifications to that package and are now heartened by Interior's decision that the standards and stipulations developed in the 1002 report and any additional requirements detailed in the opening legislation will prevail over that initial compilation.

Unfortunately our concerns about the tract selection process persist. As stated earlier the state finds that unnecessary discretion is afforded to Interior when resolving conflicts between competing bids for particular tracts. But the difficulties here are even more fundamental. There are two valuation processes essential to the mechanics of the exchange. First, the BLM is setting values for the more than 400 oil and gas lease tracts on the coastal plain. Our geologists maintain that the seismic grid is so broad as to not provide sufficient information to perform this task at any acceptable level of certainty.

The second valuation process concerns the establishment of values for the surface acreage sought by Interior. The first component of this value is what the property would yield on the market or fair market value. This value is then to be augmented with three additional considerations; Congressional acquisition of other comparable lands (like the Pribilof purchase at $600 per acre); transactional benefits such as the worth of having willing buyers and sellers and the reduction of fire suppression costs; and finally the importance of any particular lands to the purposes of the refuge.

While these three aspects of the surface valuation process afford considerable discretion to Interior two recent events alleviate our concerns in this regard somewhat. First, the Assistant Secretary has stated that state acreage will be treated the same as other lands under consideration. Second, the F&WS is in the process of elaborating its acquisition criteria so the results can be predicted with more certainty.

Progress on this front has not reduced our fears that discretion plays too large a role in the conflict resolution mechanism. This system is necessary for the situation when more than one bidder chooses the same tract. The current process would then allow Interior to choose between three possible resolution mechanisms. The first, competitive bidding, is the approach favored by the state. The second, lottery, leaves the decision to chance. Finally, Interior could award the tract to the bid which offered the lands

most sought by the refuge system. This approach appears to allow double dipping. By that we mean the Secretary has already used this method to assign value and if it is utilized again at this stage a skewing of the outcome is guaranteed. We are not satisfied with the evolution of this particular mechanism.

State concerns about the model contract also persist. To understand them it is useful to split them into preemption issues and fundamental oil and gas considerations. The initial contract preempted state authority in a number of areas. Subsequent drafts have reduced these conflicts but not all of them. For instance the contract now acknowledges state authority to appropriate water. However the subsistence language appears to preempt state management authority and we have suggested changes. Initially the contract failed to accommodate the overlapping jurisdictions of EPA/DEC, F&WS/ADF&G, and Interior/AOGCC. Some progress is evident but an agreement which establishes a regime of coordination between these authorities is still being sought. The model contract does not sufficiently acknowledge submerged lands considerations. Title to lands underlying seven rivers has been claimed by the state but Interior resists segregation of these claims from the process. On the flip side Interior questions the ability or willingness of the state to convey the submerged lands it owns within lands approved for refuge acquisition due to the public trust doctrine. This second issue is appropriate for detailed legislative comment.

The second aspect of the state's contract problems address the nature of the interest conveyed, current oil and gas industry practices, and technical oil and gas matters. Our primary difficulty stems from the fact that the state has no industry partner and consequently must acquire an interest of sufficient clarity and quality to permit it to offer same for lease at a competitive bid. The Attorney General's Office has retained oil and gas contracting expertise to assist in achieving this definition. Interior has been unwilling to come to terms with our analysis that the interest they are offering has a diminished market worth. Our consultants have also expressed concern abut the compensatory royalty for drainage provisions and other technical matters.

One other contract difficulty is the term which allows amendment of the document at any time with mutual consent of the parties. Although surficially this provision provides for flexibility it seems to us that it will be regarded skeptically also makes it difficult to determine at which point the contract for the exchange will be ready for legislative review.

I would now summarize by restating our concern about the timing of this entire adventure. As has been detailed in our remarks we have briefed and successfully resolved a number of our initial problems. This has been possible because of Interior's willingness to flex its schedule when appropriate and to devote considerable attention to problem resolution. Yet there remains a lot of work to be completed between today and the announced March 2 deadline. We are not confident that sufficient attention can be focused on our remaining problems before the train leaves the station. This fact alone is not sufficient to cause us to abandon hope and we expect to participate in the sessions scheduled for the week of February 23 in the expectation that our remaining concerns will be addressed on their merits.

I appreciate the opportunity to appear before you and remain available to answer any questions you may have.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

February 12, 1987

Honorable Don Young
House of Representatives
Washington, D.C. 20515

Dear Mr. Young:

I appreciate the opportunity to respond more fully to your recent inquiry concerning the potential exchange of oil and gas interests in the Arctic National Wildlife Refuge for refuge inholdings in Alaska. You were particularly interested in the role of the State of Alaska in exploring potential exchanges and our receptiveness to their proposals.

Should the Secretary recommend and Congress decide to open the Arctic coastal plain to oil and gas activities, I view the exchanges now under consideration as an unparalleled opportunity to enhance natural resource management within the State for the benefit of all Alaskans. In view of the significance of this undertaking, all such exchanges will be subject to congressional approval, notwithstanding the Secretary's administrative exchange authority pursuant to Section 1302(h) of the Alaska National Interest Lands Conservation Act of 1980. Further, the participants to the exchange discussions have been consistently advised that no exchange proposals will be presented to the Secretary or forwarded to Congress until <u>after</u> the Secretary has reached an <u>independent decision</u> on the recommendation to be included in the Section 1002(h) report. Any potential exchange agreements must be consistent with the findings and recommendations included in that final report.

The following chronology is offered to provide a perspective on the State's participation in the exchange process to date:

1. During the first 6 months of 1985, several Native corporations approached the Department concerning the potential for exchanges.

2. While in Alaska in August 1985, I broached the subject with Governor Bill Sheffield.

3. Later in 1985, I again discussed the project with Alaska Department of Natural Resources (DNR) Commissioner Esther Wunnicke and the Governor's Washington representative, John Katz.

4. By letter of November 13, 1985, Regional Director Bob Gilmore outlined the exchange concept to Governor Sheffield.

5. By letter of December 7, 1985, Governor Sheffield proposed the possibility that State lands be considered for exchange.

6. By letter of January 6, 1986, to Governor Sheffield, Regional Director Bob Gilmore invited the State to participate in the exchange discussions.

7. By letter of February 5, 1986, the State proposed 12 million acres of lands for consideration in an exchange. On the same date, Messrs. Tom Hawkins and Gary Gustafson of the DNR were briefed on the status of the project by Regional Director Bob Gilmore.

8. By letter of March 12, 1986, Mr. Gilmore responded specifically to the State's proposal.

9. During the following months there were intermittent staff discussions concerning the State's interest in continuing to pursue an exchange. I also continued my discussions with John Katz and members of the State legislature during this period.

10. Early in November 1986, I again met with Ms. Wunnicke in Washington, D.C.

11. By letter of November 14, 1986, the State tendered a second exchange proposal

12. State representatives, having reiterated the State's serious interest in possibly participating as a landowner in the exchange, attended exchange negotiations in Washington, D.C., the week of December 1, 1986.

13. Coordination with State representatives has been on a continuing basis during the intervening weeks.

The level of interaction and associated timing with the State over the past 2 years has been consistent with those same efforts directed toward the Native corporations. Indeed, Native Lands Group did not submit an exchange proposal until December 19, 1986, and Old Harbor made a proposal as late as mid-January 1987.

The State's role in the potential exchange is considerably greater than that of the Native corporations since the State contributes to the process both as a proprietor and as a sovereign. This dual role serves the interests of all

participants by assuring that the interests of the State as a whole are adequately represented at the negotiating table. Likewise, all Alaskans will share in the benefits generated by the State's participation should the exchanges become a reality. Substantial direct revenues from the State's leasing of tracts acquired by the State through exchange, and increased tax base, expanded employment opportunities, and maintenance of a healthy support services infrastructure are some of the sizeable advantages that could be realized by the State through the exchanges.

More recently, the State was fully represented at last week's negotiating session and considerable progress was made on the model exchange agreement. All of the exchange participants, including the State, will be meeting again the week of February 23, 1987, with a view toward reaching agreement in principle on the exchange agreements with the various participants. Obviously, a lot of work remains to be done if this goal is to be reached. Identification of specific land interests within the Arctic Refuge to be exchanged will not occur until later.

Finally, I would like to dispel the notion that the exchange will consume a major portion of estimated subsurface values on the Arctic coastal plain. While the acres potentially offered in exchange are large, the exchange is premised on exchange for comparable value. If the Secretary recommends opening the Arctic coastal plain and Congress takes appropriate action, it appears that the bulk of the subsurface resources would be available for allocation through a traditional leasing program.

I consider the State an integral and essential component of the exchange initiative and hope it continues to participate as many of the lands it has offered provide significant environmental resources that would enhance the National Wildlife Refuge System.

I appreciate your interest and, if the Department approves any exchange proposals, I look forward to working with you during the congressional review process. Please let me know if we may be of further assistance to you or your staff on this important issue.

Sincerely,

Bill Horn

Assistant Secretary for Fish
and Wildlife and Parks

cc: John Katz
Senator Stevens
Senator Murkowski

MEMORANDUM State of Alaska

TO: Judith M. Brady
Commissioner
Department of Natural Resources

DATE: February 15, 1987

FILE NO:

TELEPHONE NO: 276-3550

FROM: GRACE BERG SCHAIBLE
Attorney General

By: Mark P. Worcester MPW
Francis Neville
Assistant Attorneys General

SUBJECT: Policy issues concerning ANWR trades

CONFIDENTIAL

This memorandum includes a listing of the policy issues implicated in the drafting of an ANWR exchange contract. We request policy guidance on these issues so that we will have a basis for assisting in the negotiation of the terms of a draft exchange contract. Brief descriptions of some considerations bearing on the policy choices are included.

ULTIMATE TRADE ISSUES

(1) State participation. Should the state be involved in trades?

(2) Native corporation participation. Should the state take a position on Native Corporation trades?

ISSUES RELATING TO THE TRADE PROCESS

(3) Timetable. Should the state oppose the present timetable for trade processes? There are a number of problems created by rushing to complete trade agreements before opening legislation:

(a) Wasted effort. All efforts may be wasted if Congress fails to open ANWR.

(b) Perception of objectivity. The fact that Interior is completing trades at a time when it is supposedly objectively reviewing comments on the advisability of opening ANWR to oil and gas activities may reduce the chances of favorable Congressional action.

(c) Potential inconsistencies with opening legislation. Congress may not open some of the tracts which may be traded. The agreement does not address this possibility, and it would be difficult to address this problem in a way which would be fair to all trade participants. Congress may also impose different

conditions than those envisioned by the trades. This fact creates drafting and practical problems.

(d) Negotiation handicap. Interior rejects good faith suggestions by the state on the ground that the timetable will not allow departure from existing drafts. (In particular, the state's counterdraft of the trade agreement was not even presented to Interior because Interior made clear that a new draft would be perceived as too late, and intended to scuttle, rather than promote the trade process. Also, John Katz has indicated that the state's ability to use the existing state exchange law (AS 38.50) will be dictated by Interior's timetable.)

(e) Public policy vs. private agendas. The present timetable is the result of internal corporate needs of Koniag and its trade "partner" (reportedly Chevron). Should federal and state policy be dictated by private corporate needs, especially when this may result in an unnecessarily complex and ambiguous agreement, and may also result in unfavorable Congressional action?

(4) Secrecy. Should the state support secret negotiations? On a policy level, does the state believe that this is an appropriate way to deal with this vital state and national issue? On a practical level, does the state believe that Congress will be favorably or unfavorably influenced by this secret negotiation process in advance of opening legislation?

(5) State exchange approval process. Should the state commit itself to an exchange process not presently authorized under state law? Present exchange law (enacted in the wake of the CIRI land trades) would require a preliminary trade agreement, followed by a public process and then a final trade agreement. AS 38.50. It appears that Interior will insist upon proceeding directly to a final agreement, subject to ratification by Congress and the state legislature. The ratification by the state legislature would sanction the deviation from AS 38.50. The question is how the Alaska legislature will react to this deviation from existing exchange law.

(6) Using stipulations as regulations. Should the state

support the idea of extensive stipulations (80 pages in the first draft) being included in the title documents? These stipulations really are in the nature of regulations, but are drafted as land title documents, which would be recorded, and the terms of which would run with the land. Supposedly, the stipulations are designed to be superseded when and to the extent "inconsistent" regulations are later adopted. This could create a bewilderingly complex, inflexible and ambiguous regulatory system. With an array of state and federal laws and regulations already creating a complicated regulatory process, arguments over the proper application of these detailed title stipulations is virtually inevitable. The apparent reason for casting what are properly regulations as title stipulations is to enable the Native corporations a headstart on development. (Interior says it will take two years after opening legislation to conduct a lease sale and promulgate regulations.) However, the state should decide whether it should support secret negotiation of title stipulations when the purpose is to avoid the public regulation promulgation process.

(7) Format and style. Should the state accept the wording and structure of Interior's draft? Interior seems adamant upon a form and style of agreement which is archaic, convoluted, verbose, and filled with unnecessary legalisms. As a result, Interior's draft contract is very difficult to read and comprehend. Ambiguity is created even where the parties agree upon contractual intent. Despite a virtually universal adverse reaction to the form and style of Interior's draft, the state's plain English reorganized counterdraft was not presented to Interior on the sole ground that Interior would reject it because it is "too late".

SUBSTANTIVE ISSUES

(8) Who should pay for additions to federal refuges? Should the state oppose the Native corporation trades as presently structured because of their impact on state revenues? As it is, the Native Corporations are not only likely to get much more than "comparable value" for the interests traded to Interior, but Interior will finance 90 percent of the purchase price with dollars which would otherwise go to the state. It is reasonable to insist that the effectuation of

federal refuge purposes should be financed by federal revenues, not state revenues.

(9) Subsistence easement. Should the state actively oppose the "subsistence easement" Interior intends to grant to Kodiak Natives in the Kodiak National Wildlife Refuge? This easement, rather than merely preserving existing statutory rights under ANILCA, may create novel subsistence rights as a matter of property law which would be immune from future statutory and regulatory control. This would be a radical departure from existing law, and would preempt state authority to make findings and regulate under ANILCA and state law. Liza McCracken is preparing a counterdraft of the easement which may be acceptable to the state, with a more detailed exposition on the issues. The testimony at the Alaska House Resource Committee hearings on February 13, 1987 made it clear, however, that the provisions of the Koniag draft which attempt to enhance both the legal nature and substantive extent of Native subsistence rights is an important aspect of the Koniag trade for both Koniag and Interior.

(10) Public use easement. Should the state seek a "public use easement" for state residents on land it trades to Interior? What should the nature be of any retained "public use easement"?

(11) Treatment of state-claimed submerged land in ANWR. Should the state actively oppose Interior's attempt to trade to Native corporations the submerged lands in ANWR which are claimed by the state under the "Equal Footing Doctrine"? In the past, lands subject to a title dispute have typically not been leased, or the proceeds placed in escrow pending resolution of the title dispute. Interior wants to trade the disputed lands "subject to valid existing rights". This would require the state to litigate not only with the federal government, but also with the Native corporations and their industry partners. Tom Koester has already written a draft letter to Interior which addresses this subject in more detail.

(12) Treatment of submerged portions of land to be traded to Interior. Should the state reserve submerged lands from its trades to Interior? Tom Koester's draft letter concludes that this is a policy issue.

(13) Valuation issues. Should the state insist upon a fairer valuation method?

(a) Valuation of ANWR tracts. Interior is valuing each ANWR tract. State geologists, geophysicists and economists assert there is insufficient information available to value the individual tracts with any reliability. (Significantly, some of the Native Corporation partners have well data and have reprocessed seismic data which provide them a significant advantage over the state and Interior in assessing which tracts are most valuable.) Should the state oppose trades because of the risk of the potentially much more than "comparable" value to some of the Native corporation participants?

(b) Credit for loss of Mineral Leasing Act Revenues in ANWR lands received by state. In valuing tracts which the state might get in ANWR, Interior refuses to give credit to the state for the amounts which the state would have received under the Mineral Leasing Act and the Alaska Statehood Act if there were no trade. No account is given to the fact that the state would lose its 90 percent of the revenues in any tract the state received in ANWR. Without a consideration of this fact, the state would receive only a net value of $1 in ANWR oil and gas rights for every $10 worth of land traded to Interior. (Of course, opening legislation might attempt to reduce the state's Mineral Leasing Act share, but this would change only the degree to which the state would not receive full value, not the fact that the state would not receive full value.) The impact is that these are not really "comparable value" trades for the state, especially in comparison with the Native corporations. Native corporations receive ten times greater "bang for their bucks" on account of this factor.

(c) Headstart premium value. Interior is probably not properly accounting for the premium value being granted the trade participants. The trades are designed to allow the participants to select tracts with only the very limited competition inherent in Interior's "tract selection" aspect of the exchange process (i.e., without having to face open competitive bidding). Equally importantly, the trade participants, and

primarily the Native corporation participants who already have industry "partners" signed to leases, will get a minimum two year head start on drilling over those who must rely upon buying oil and gas rights at a federal lease sale. These priority rights are surely worth a great premium, and divert revenues from the federal bonus and royalty stream from which the state participates. It is conceivable that drilling on tracts acquired by Native corporations could condemn the state tracts before the state could obtain state legislative approval and complete all steps required under state law to lease the tracts acquired by the state. The Native corporations, which have substantially more trade stock than the state, will be the primary beneficiaries of the apparent failure of Interior to put an early opportunity premium on the ANWR trade tracts.

(d) Valuation of lands to be traded to Interior. Interior's valuation of lands to be traded allows variance between state and Native Corporation land based upon Interior's subjective acquisition priorities. Also, in some instances, it is debatable whether Interior is really gaining very much of value in exchange for oil and gas rights in ANWR. For instance, in the Kodiak National Wildlife Refuge the Native corporation title is subject to refuge restrictions under existing law. While Koniag and the related village corporations might be yielding legal title to the surface, the subsurface estate would be retained. More significantly, as noted above, Koniag and the village corporations intend to retain a subsistence easement. This raises the question whether the USFWS is truly obtaining any additional authority to protect and regulate the Kodiak National Wildlife Refuge in exchange for the millions of dollars in ANWR oil and gas rights being granted Koniag and the village corporations. Whatever the defects in the valuation process, however, it should be noted that Interior asserts that the same standards applicable to the Native corporations will also be applied to the state.

(14) Grant clause. Should the state insist upon a better grant clause? The state would prefer a fee interest in ANWR. However, there is every reason to believe Interior will insist upon eventual reversion of all interests to Interior.

Interior's draft would convey less tenure than a normal oil and gas lease. (In particular, the agreement is not intended to guarantee that the oil and gas interest may be held indefinitely while waiting for a gas field or marginal oil field to become economic.) The grant clause drafted by Interior also leaves the extent of the grant subject to a large degree of USFWS discretion, and even fails to make expressly the drilling and production rights exclusive.

(15) Rescission. Should the state elect rescission rights? It complicates the terms of the trade, and has a cost (1.5 percent federally-retained royalty, and a right to regain only 65 percent of the traded state land, after deducting any net revenues).

(16) Preservation of state regulatory authorities. Should the state insist upon better definition of the interplay between federal, state, and local regulatory authorities ? It would be reasonable to apply many state authorities in ANWR. (AOGCC, DEC, ADF&G, DNR, CZMA). To what degree should the state accept preemption of state authorities?

(17) Drainage. Should the state insist that the federal government should not receive any drainage compensation for drainage from areas the federal government chooses not to lease on environmental grounds? Interior's proposal to insist upon drainage compensation has two drawbacks. First, Interior's insistence that it retain the authority to determine the extent of drainage is unreasonable. Second, without delineation wells, there will necessarily be inadequate data upon which even a neutral party could determine drainage. If drainage compensation is granted to the federal government, the state should seek specific language assuring that the federal drainage compensation revenues would be shared with the state under the Mineral Leasing Act and the Statehood Act. This assurance would make drainage compensation to the federal government more beneficial than detrimental to the state to the extent the state received more as its share of drainage compensation paid by state and Native corporations than it paid as drainage compensation.

(18) Unitization. Interior's draft would appear to preempt AOGCC authority, and give Interior improper authority over when unitization is appropriate, but also over the rate of exploration, development and production, and over the

allocation of production. Interior's unitization clause would also allow the federal government to commit unleased federal land to a unit, and make the federal share of the costs of development and production payable only as an offset against the federal share of production. This provision has two significant drawbacks. First, it imposes a potentially large capital burden upon potential state lessees. State lessees would have to front all the costs of production. This may cause prospective state lessees to pay less for state ANWR leases. Second, to the extent the federal government self-develops land (rather than leasing it), Interior may claim the proceeds are exempt from the revenue sharing provisions of the Mineral Leasing Act and the Statehood Act.

(19) 7(i). Should the state take a position on the interplay between the trades and 7(i) revenue sharing? Interior and the Native corporations claim that the revenues received by the Native corporations as a result of the trades are exempt from 7(i) because the Native corporations are, at Interior's supposed insistence, only trading surface estate interests for ANWR rights.

(20) Possible alternatives to trades as presently conceived. The state could urge Interior to change the nature of the bargain in a way which would benefit the Native corporations without harming state interests. Two possible alternatives are discussed below.

(a) Reserved royalty. The state could urge that any traded ANWR oil and gas rights be subject to a retained federal landowner's royalty, and that the retained royalty be subject to revenue sharing under the Mineral Leasing Act. Alternatively, an overriding royalty directly in favor of the state could be reserved. Such reserved royalty interests would obviously lower the value of ANWR tracts (which would mean a greater portion of ANWR would be traded). Also, a typical reserved royalty clause (whether indirectly in favor of the state through the Mineral Leasing Act or directly in favor of the state) would not prevent the loss of the state's existing right to share in bonuses and rents. However, state sharing of royalties from ANWR land traded to Native corporations would tend to decrease the extent to which the state would be financing Interior's additions to its refuges.

(b) Bid credits. A more attractive alternative would be to urge Interior to issue assignable bidding credits to the Native corporations in return for Native corporation land. This would avoid many of the procedural and substantive problems identified in this memorandum, but would raise some additional problems which would need to be addressed. For instance, it would be necessary to be clarify that the state would still receive its Mineral Leasing Act share even if the bonus were received by Interior in the form of a bid credit.

CHRONOLOGY OF STATE INVOLEMENT IN PROPOSED ANWR LAND EXCHANGES

August 85 Horn meets Sheffield

1984 - 1985 — Koniag broaches subject of ANWR land trades with former USFWS Regional Directors Keith Schreiner and Bob Putz. Informal discussions then ensue with Alaska's congressional delegation and DOI's Bill Horn.

Fall, 1985 — Four USFWS appraisers appear in DNR's Anchorage office and ask for state comparable information on recent large land sales. They are extremely evasive concerning their purposes. At no time do they mention a possible ANWR land trade.

Nov 85 Gilmore writes Gov inv'g participation

December 3, 1985 — John Katz sends memo to the Alaska congressional delegation regarding ANWR land exchanges. He advises that the Interior Department has commenced trade discussions with various Native corporations. Katz relates that the discussions are at an early stage and that the state has neither been consulted by DOI officials, nor yet taken a position regarding the wisdom of the trades.

January 21, 1986 — Dick Mylius of DLWM provides DLWM Director Tom Hawkins with a memorandum which identifies approximately 12 million acres of state land identified by ADF&G which might be used for trade. These lands have habitat attributes which should be of interest to USFWS.

January, 1986 — Tom Hawkins meets with Bob Gilmore of USFWS to discuss ANWR trade prospects. Gilmore provides only superficial information regarding Native trades but agrees to consider a formal state trade proposal.

February 5, 1986 — Tom Hawkins meets again with Bob Gilmore and delivers a letter which asks for more information regarding the details of Native trade discussions and offers the 12 million acre pool of candidate state exchange land for USFWS consideration. Tetlin only

February 17, 1986 — Governor Sheffield writes the commissioners of DNR, DEC, DF&G, Commerce, Revenue as well as Bob Grogan (OMB/DGC), Hal Brown (AGO) and John Katz to assign numerous issue analysis tasks related to ANWR. The tasks assigned DNR included: a) monitor closely USFWS plans for possible land exchanges in ANWR and ascertain opportunities for exchanges involving state land; and b) work with ADF&G to identify state lands available for inclusion in a trade.

February 17, 1986 — Governor Sheffield writes DOI Secretary Hodel to request information related to ongoing trade discussions between DOI and Native corporations and to express the state's interest in the ongoing land

exchange discussions. He specifies that, as a sovereign state, Alaska should be consulted and meaningfully involved in any trade deliberations.

March 12, 1986 — USFWS Regional Director Gilmore responds to the Hawkins letter of February 5, 1986. He stated that USFWS has reviewed the pool of candidate state exchange lands and lists the areas in order of acquisition priority. Only the state land within the Tetlin NWR is identified as a high USFWS acquisition priority. Gilmore states that the majority of the state lands are simply not a priority for acquisition. Furthermore, he suggests that adequate protection for some areas might be achieved through cooperative management agreements. Gilmore makes no reference to the proposed Native trades.

April 2, 1986 — DOI Assistant Secretary Bill Horn responds to the governor's February 17 letter to Secretary Hodel. Horn says that the trade negotiations with Native corporations are still very preliminary and that DOI has reached no tentative agreements, including a decision on whether an exchange proposal will be forwarded to Congress. He assures the state that "should this effort progress beyond the speculative stage, the State of Alaska will be kept informed of further developments and be welcome to participate in any exchange negotiations . . ."

May 16, 1986 — DNR Commissioner Wunnicke sends memo to Bob Grogan (OMB/DGC) which responds to the governors information request of February 17th. Attached to the memo is a summary of the state action taken thus far on land exchanges.

May 20, 1986 — Tom Hawkins sends detailed ANWR land exchange memo to Bob Arnold, DNR Deputy Commissioner. The memo described the state's land exchange progress of the DOI/Native trade eforts. The memo concludes by stating that the USFWS response to the state's trade proposal calls for further state action.

July 8, 1986 — Bob Grogan issues memorandum to resource commissioners, John Katz, Molly McCammon (Governor's Office) and Vince Wright (Revenue) which outlines state policy regarding management of ANWR. Also attached is an executive summary of the material used to support the policy. The policy includes the statement that "the DOI has assured us that the state will be kept apprised of any proposed land exchange under consideration and will be consulted before any final decision is made." The executive summary says the state will continue

discussions with USFWS concerning the state's land exchange proposal.

September 11, 1986 — Tom Hawkins and Gary Gustafson brief the House Special Committee on Oil and Gas on the ANWR land trade. They report the state's efforts and the tepid response from USFWS. The meeting is covered by the Anchorage Daily-News and an article appears the next day in the newspaper.

September 26, 1986 — Representative Don Clocksin writes Commissioner Wunnicke to request a briefing on the specifics of any trades involving ANWR.

October, 1986 — Commissioner Wunnicke goes to Washington, D.C. and among other items, discusses proposed Native/DOI land trades with Bill Horn. Horn seems interested in the prospect of a state/DOI land exchange in ANWR and encourages state participation. He also assures John Katz and the commissioner that DOI will keep the state advised of the Native trade efforts.

"real discussions" going on in D.C. - Katz. were stuck in Ak. back channel - Katz

October 30, 1986 — Commissioner Wunnicke, Tom Hawkins and Gary Gustafson brief Representative Clocksin, Representative Cotton, Senator Halford and an aide to Representative Pourchot on state involvement in ANWR land trades. It is explained that state efforts have stalled due to USFWS reluctance to accept most of the state's trade offerings. However, the state intends to continue its trade efforts.

November 4, 1986 — Gary Gustafson meets with Margie Sagerser, Mike Smith and Mark Rindner of the Native Land Group, a CIRI sponsered ANWR exchange participant. He learns the exchange proposal is much further advanced than previously thought. Draft exchange documents have been distributed and an ANWR tract selection process is imagined within several months. For the first time the state learns the identity of all the Native corporation participants and that a DOI ANWR exchange team has been assembled.

November 12, 1986 — Gary Gustafson sends memo to Commissioner Wunnicke which outlines status of Native land exchanges and provides recommendations for state participation, including the creation of a state ANWR Exchange Team with an appropriate level of funding. This memo also outlines the general methodology DOI intends to use to award subsurface tracts in ANWR to exchange participants. It includes the names of the DOI and Native representatives who are negotiating the trade. Gustafson also outlines a timeframe for completing state exchange tasks.

November 14, 1986 Gary Gustafson and Sharman Piper (Representative Cotton's Office) meet with John Doebel (USFWS) to discuss the status of Native trades. Doebel provides some details but stresses that the exchanges are still considered speculative.

November 14, 1986 Tom Hawkins again writes Bob Gilmore to renew trade dicussions. He proposes the inclusion of all state land of interest to USFWS as part of trade, and to consider any additional areas nominated by USFWS. Hawkins mentions that the state is also willing to consider trading state lands of interest to other federal agencies, such as the National Park Service (NPS). He says he is prepared to draft a preliminary exchange agreement as a first step towards negotiations. Hawkins also asks for an update on the status of DOI trade negotiations with Native corporations. (Note: no response has been received to this letter.)

November 17, 1986 Commissioner Wunnicke sends an ANWR Trades Issues Paper to Governor Sheffield. She notes that the USFWS has shown little interest in trading ANWR lands for state lands. She also relates that the state has just learned of Native corporation efforts to accelerate ANWR trades and that DOI has apparently made considerable progress of late in its planning for trades. The paper also includes a recommendation to create a state ANWR Exchange Team as an element of a larger ANWR strategy.

November 17, 1986 Tom Hawkins meets with Bob Gilmore and John Doebel while delivering his letter to Gilmore. They reconfirm that Native land trades are still in a very preliminary stage and that they will reexamine the state's trade proposal.

November 19, 1986 Commissioner Wunnicke again provides Governor Sheffield with an ANWR trade update. She mentions that her staff continues to advance a land trade package with USFWS, but that USFWS finds it difficult to justify acquisition of certain lands because they feel the state already provides a sufficient level of protection. She also relates that the USFWS has no interest in giving up ANWR land to benefit the NPS. The memo is also furnished to Governor-elect Cowper.

November 24, 1986 Commissioner Wunnicke sends memo to Jim Eason (Director, Division of Oil and Gas) and Laurel Murphy (Acting Director, Division of Mining and Geology) which asks them to ascertain the resource and resultant economic values in the ANWR coastal plain in order to prepare for possible state participation in tract

December 1-5, 1986 — Tom Hawkins, Gary Gustafson and Norm Cohen (ADF&G) go to Washington, D.C. to participate in the DOI sponsored ANWR land exchange negotiations. John Katz' staff also participate. The negotiations center on the land exchange contract, land use stipulations and ANWR subsurface tract selection process. The state's representatives also advance the state's trade package with DOI. The meeting was of considerable benefit as the state learns the details and timing of the proposed trade for the first time.

December, 1986 — Briefings on the ANWR trade proposal are held by Tom Hawkins and Gary Gustafson for Governor Cowper, Lt. Governor McAlpine, DNR Commissioner Brady and others. The state continues to advance its trade package by conducting appraisals of 1.45 million acres. The USFWS conceptually approves about 250,000 state acres for trade. The state strives to expand this acreage.

Jan 87
Feb 87 } state partic'n as a full partner

despite "diff'y of state making itself until Oct 86," } Katz
the state still has all options available } 2/13/87

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS

TO: Judith M. Brady
Commissioner

THRU: James E. Eason
Director

FROM: Edward Phillips
Petroleum Economist

DATE: January 12, 1987

FILE NO:

TELEPHONE NO: 561-2020

SUBJECT: Arctic National Wildlife Refuge (ANWR) Land Trades and Potential State Revenue

DNR geologists and geophysists are in unanimous agreement that lands within the coastal plain of ANWR represent the best remaining potential for major oil and gas discoveries in Alaska. This estimated potential substantially exceeds that of remaining unleased state lands. Under current law, federal leasing of ANWR lands for oil and gas development would yield 90 percent of any bonuses, rentals and royalty income to the state. In addition, the state would receive severance, corporate, property and conservation taxes from development of ANWR leases. However, the royalty share alone could constitute upwards of 70 percent of total state revenue from potential ANWR development.

Both past and proposed ANWR land trades with native corporations reduce the revenue potential to the state by eliminating the state's share of potential federal bonuses, rentals and royalties, but not state taxes. Although the state's overall severance tax revenues would increase from development of ANWR regardless of whether or not the royalty share is reduced by exchanges, this gain is inconsequential by comparison to the state's potential royalty loss from additional federal exchanges with third parties.

Given ANWR's oil and gas potential, these losses could be substantial. The attached table reflects the staff estimates of the relative state revenue impacts of ANWR development assuming no additional exchanges and no legislative reduction in the state's 90 percent share of revenues from leasing in ANWR. The revenue projections contained in Table 1 are derived from the geological, geophysical and economic information contained in the Draft ANWR Coastal Plain Resource Assessment (1002 Report). The draft report data and assumptions were used by the federal government to compute the Net National Economic Benefits (NNEB) from leasing ANWR and to provide the justification for the policy recommendations contained within the report.

Specific assumptions underlying the attached revenue projections are not crucial to the basic issue, which is one of relative shares, or how the potential pie is sliced rather than absolute amount(s) involved. No revenue projection or forecast that has the year 2000 as a base year can be treated as a likely outcome. It is more properly viewed as "one possible outcome." The use of federal revenue numbers just assures us that we are all speaking the same language.

The assumptions underlying the estimates of potential land trade-related revenue gains and losses to the state have geological, geophysical and economic components. The 1002 Report indicates that if oil is discovered, the average recoverable reserves are estimated at 3.2 billion barrels. This quantity was used for the NNEB estimate derived by BLM for the draft 1002 report, and provides the "assumed" reserve base or recoverable reserves for this discussion. In our analysis, production would commence (from two fields) in 2000 at a 1984 dollar price of $33.00 per barrel, and escalate at one percent per year in real terms (production from one of the fields could be delayed for a year or two without substantially affecting the results). All estimates are in 1984 dollars, hence they are net of inflation, but they are not discounted to reflect the time value (time preference) of funds to the state.

The estimates are for the years 2000 through 2010. Production cannot realistically be expected much before that time, and the Department of Revenue currently does not provide estimates of Prudhoe Bay revenues embodying the federal price assumptions for periods beyond 2010.

As Table I illustrates, potential ANWR revenues to the state (even given current ASRC/KIC inholdings) could be substantial, exceeding those of Prudhoe Bay by the year 2003. By the year 2010, ANWR's revenue potential is almost double that of Prudhoe Bay using the federal price assumptions. This would be true of almost any set of prices exceeding the development threshold for ANWR. Based upon the assumptions we have analyzed, any further transfers of prospective ANWR lands from federal jurisdiction reduces the state's per-barrel revenue potential by about 70 percent as a result of loss to the state of potential royalties, bonuses and rentals. As can be seen from Table 1, the potential royalty revenue at stake exceeds six billion dollars.

We believe a significant transfer of revenue potential has already occured by virtue of ASRC's receipt of subsurface title to the two inholdings near Kaktovik. The Oil and Gas Section of DMGGS has estimated that up to 25% of ANWR's oil and gas reserve potential may be contained in lands already received by ASRC. Thus, this land trade could cost the state as much as $1.6 billion (1984 $) in lost royalty revenues if the assumptions used in the draft 1002 report and in this analysis are assumed. The volume of oil and gas discovered and its relative locations will ultimately determine the extent of the revenue "loss" associated with the previous ASRC/KIC land trades and any future land trades.

Attachment

0274P

TABLE I

ESTIMATED POTENTIAL INCOME 2000 TO 2010*
(10^6 1984$)

Year	Prudhoe Bay			ANWR (with current ASRC inholding)			ANWR Revenue as % of P.B. Revenue
	Royalty	Severance	Total	Royalty	Severance	Total	
2000	1056	670	1726	155	0 - ?	155	9
2001	923	573	1496	528	234	762	51
2002	814	488	1302	767	412	1179	85
2003	711	419	1130	779	418	1197	106
2004	625	362	987	790	425	1215	123
2005	534	313	847	711	431	1142	135
2006	430	266	696	629	341	970	139
2007	359	223	582	560	266	826	142
2008	294	179	473	506	206	712	151
2009	235	138	373	448	148	596	160
2010	159	100	259	406	105	511	197
	6140	3731	9871	6279	2986	9265	

Assume 5/00

3485 2986 6485

this reduction to 50% results in a total revenue reduction of 30% over this period of time

* using federal price assumptions

0273P

Steve Cowper

State of Alaska

OFFICE OF THE GOVERNOR

WASHINGTON, D.C.

January 9, 1987

Ms. Sharon Allender
Division of Conservation
and Wildlife
Department of the Interior
Room 6535
C St. between 18th & 19th Sts., N.W.
Washington, D.C. 20240

Dear Ms. Allender:

Preliminary comments on draft ANWR exchange agreement

The State of Alaska has reviewed the draft land exchange agreement between Koniag, Inc. and the United States, dated November 3, 1986. This letter conveys some of our comments on the form and content of that draft agreement.

As stated in my December 29, 1986, letter accompanying the comments on the draft stipulations, the state has two principal areas of responsibility from which to review the proposed land exchange agreement: (1) as landowner and potential participant in phase one of the exchange process; and (2) as a sovereign. The sovereign responsibilities include both a responsibility to act as steward of natural resources with police power in the area, and the responsibility of a fiduciary. As a fiduciary, the state must review the concept of land exchanges with third parties as well as consider the effect of such exchanges on the overall interests of Alaska.

The comments in both this letter and the accompanying marginal notes to the draft exchange agreement are preliminary and reflect only a brief review, primarily from the perspectives of state as landowner and as sovereign with police power. The concepts reflected in the draft exchange agreement are fairly complex and will require further review and study before we can provide more detailed comments.

From the perspective of state as landowner and potential participant in the exchange process, we have a concern that the contract will not accomplish one of its basic purposes; that is, to enable a land exchange participant to acquire a sufficient interest in land to lease it out for a profit. Initially, there is a question, currently being looked at by our attorneys, as to whether the limited interest in land proposed to be conveyed is

sufficient to permit a participant to lease it under current state statutes. Beyond that, the state is concerned with the limitations on the grant, especially when limited by post-agreement events and Secretarial discretion. Also, the uncertainties resulting from the provisions pertaining to termination of the contract and the extensive reservation of discretion for the Secretary of the Interior (Secretary) and the regional director to make determinations without substantive standards create questions as to whether there is sufficient security to a lessee to enable it reasonably to conduct exploration and development activities.

The uncertainties created by the proposed exchange agreement also affect the value of the land interest that the Department of the Interior (DOI) proposes to exchange. We recommend that you review the federal oil and gas lease form as an example of the types of provisions that may satisfy potential bidders. In addition to these concerns, there may also have to be changes in the wording of the draft agreement to reflect provisions of state law and procedure applicable to state participation in a land exchange. We are currently reviewing the agreement to determine the necessity and the content of such changes. We expect any State/DOI exchange agreement will need to deviate from, or supplement, many of the provisions contained in the Koniag agreement.

From the perspective of state as sovereign steward with police powers, the draft exchange agreement raises a number of issues. In this regard, the focus of our concern is language in the draft agreement that appears to override or usurp existing state jurisdiction. While it may be possible, through Congressional authorization of the land exchange agreement, to preempt certain existing state rights, most of the rights affected by the draft exchange agreement involve areas of historical jurisdiction, state expertise, or prior Congressional determination that the state should exercise its jurisdiction. Congress should not be asked to abrogate those rights through the vehicle of a land exchange agreement, particularly when the recent Reagan Administration report on The Status of Federalism in America was extremely critical of federal government preemption or legitimate state rights.

The following are three examples of this concern. Other instances are noted in the marginal notes to the draft exchange agreement. First, there is the need for a coordinated state/federal process for design review, permitting, field surveillance, and enforcement. This concern is described in some detail in the letter giving comments on the draft stipulations. Coordination of the various governmental processes is necessary to avoid duplication of efforts and associated problems.

With respect to the draft exchange agreement, there are certain provisions which appear to afford the regional director the discretion to approve activities that are already under the

jurisdiction of other state or federal agencies. In most cases there are no substantive standards or guidelines applicable to that approval process. For example, paragraph 4 (a) gives the regional director authority to approve unitization agreements, reinjection of "gas, water, air or other substances," and storage of injected or reinjected substances. However, these activities are already under the jurisdiction of the Alaska Oil and Gas Conservation Commission and the U.S. Environmental Protection Agency under the terms of applicable state and federal statutes and regulations. As noted in the comments to the stipulations, a land exchange agreement between two parties simply is not an adequate substitute for the network of federal, state, and local requirements that have been developed over time to address complex issues. We belizve that these existing processes are proven and should be used, rather than preempted.

Next, the state clearly has jurisdiction over appropriative water rights and groundwater allocations for development purposes. There are several provisions in the draft exchange agreement which appear to conflict with that authority. Paragraph 10 affords the Secretary the authority to operate or lease a "well for the purposes of producing water, using such water on refuge lands, and disposing of it for beneficial use on other lands." This appears to be in conflict with state jurisdiction. Under the rationale of United States v. New Mexico, 438 U.S. 696 (1978), the U.S. Fish and Wildlife Service (USFWS) may have a reserved federal water right, but (if at all) only the minimum amount necessary for refuge purposes. Confirmation of any reserved right would have to be obtained through the state water rights adjudication process and any additional right would require application under the state appropriation process. Also, paragraph 4 (d) requires the regional director to approve the use of surface and ground water in ANWR, even if there has already been a state water rights adjudication. This is a usurpation of established state authority.

Third, the subsistence easement created in paragraph 3(b) and the appendix describing the easement suggest potential conflicts with the jurisdiction of the state over subsistence issues. The appendix seems to assume that the Secretary of the Interior is managing subsistence uses on refuge lands under section 805 of ANILCA. In fact, the state has enacted laws of general applicability that have been approved by the Secretary under section 805, and, therefore, the state, not the United States, is managing subsistence uses on refuge lands and other federal public lands. Because the state has enacted laws of general applicability that have been approved, it is the state boards of fisheries and game, not the Secretary, that are responsible for developing regulations governing subsistence uses. The provisions of title VIII of ANILCA reflect existing Congressional intent that, once the state has met the statutory requirements, it has jurisdiction over subsistence uses on federal lands.

Because subsistence opportunities for rural residents on federal lands are protected under both state and federal law, Appendix 2 is not necessary, and could be deleted. However, if it is deemed necessary for some other purpose, the following changes need to be made to make it consistent with state and federal statutes.

1. Use "domicile" rather than "residence" in order to be consistent with state law (Ch. 52, SLA 1986).

2. Specify that the "eligibility" of residents of Karluk and Larson Bay (not the "right", since the use of wild resources for subsistence is not an absolute right) will be determined by the state boards of fisheries and game so long as the state has laws approved by the Secretary under section 805 of ANILCA.

3. Delete provisions that mandate a finding that residents of the specified communities are local residents under ANILCA. This decision is made by the state boards, subject to the judicial review procedures set out in section 807 of ANILCA. In fact, these communities have already been found to be rural.

4. Recognize that the state also has closure authority under state management.

5. On page 3, there is no need to specify that references to ANILCA will be construed in accordance with that law -- this is redundant. Moreover, it would not be appropriate to limit construction of ANILCA terms to the provisions as they existed in 1980. For example, there has already been an amendment to section 807 of ANILCA that repeals the expedited judicial review provisions (i.e., it no longer requires these cases to have priority over other matters).

We also believe that the terms, conditions, and stipulations in the exchange agreement do not provide adequate protection for fish and wildlife resources or human use of those resources. Two provisions of the exchange agreement are of particular concern. Paragraph 21 appears to require the issuance of permits from any agency of the DOI, if the activities are consistent with provisions of the agreement and comply with federal laws and regulations. Similarly, paragraph 25 restrains the USFWS from opposing or commenting unfavorably upon any permit or approval application made to any government agency if the proposed actions are consistent with the agreement. These two provisions appear to limit USFWS's ability to respond to and mitigate possible adverse impacts through the permit review and comment processes. Exploration, development, and production activities may extend for 20 or more years after exchange agreements are signed. It is difficult, if not impossible, to initially envision all terms and conditions necessary to protect fish and wildlife resources over such an extended time period. Development of mitigative measures is a dynamic process that must change with assimilation of new

information or development of new technology. The state recommends that paragraphs 21 and 25 be amended to: (1) provide for the modification of stipulations based on new information or technology, and (2) eliminate provisions that restrict the USFWS's ability to comment on proposed development activities.

Numerous deficiencies were also noted in Appendix 4, the draft land use stipulations. For example several fish and wildlife species of local, state, and national importance were not addressed in the stipulations including: polar bear, moose, and peregrine falcons. Specific comments on the stipulations contained in Appendix 4 are contained in our December 29 letter.

The state requests the opportunity to review and comment on the draft ANILCA 810 analysis for the land exchange, which is presented in paragraph 14, prior to consummation of the agreement. This analysis is important to the exchange process because it is unclear that the stipulations contained in Appendix 4, or the tract selection process will not significantly restrict subsistence uses on exchanged lands. The state also requests the opportunity to review the draft ascertainment report being prepared for the Koniag exchange and described in term 15, as well as Appendix 1 to ensure that the state has a clear picture of all associated impacts.

Enclosed is a copy of the draft exchange agreement with our marginal comments. Besides our substantive concerns, we feel that by condensing and reorganizing the agreement considerable improvement could be achieved. For instance, many of the definitions are not needed, are more appropriately incorporated into the substantive provisions, or would gain greater clarity if more simply stated. The substantive provisions would also be both more readable and clear if set forth more simply and concisely. Moving the definitions to the end of the agreement would also enhance readability. The agreement would also benefit from headings and a table of contents. In reviewing our marginal comments, you should keep in mind that they are only shorthand indications of our preliminary thoughts. Please feel free to contact us for a fuller explanation of our comments.

In addition to the marginal comments, there are a number of items not presently included in the agreement which we feel are important to include in the final agreement. They include:

1. A provision dealing with access to, use of, and procedures for maintaining confidentiality of confidential data. This provision is necessary for unitization purposes and may be desirable for other federal and state land management purposes.

2. A provision providing that state leasing activity is not considered a "commercial" enterprise. This is desirable to avoid any possible claim that state involvement as a lessor in ANWR constitutes prohibited

"commercial use" of confidential data under the provisions of ANILCA.

3. A force majeure clause.

4. Provisions for choice of law and choice of forum.

5. A provision setting out how the agreement is to be interpreted.

6. A provision on duty of good faith and fair dealing.

7. A provision regarding notice.

8. A provision in which each party warrants that it will not create any new third party interests in the land it proposes to exchange.

9. A provision stating that headings (once they are included in the agreement) are not part of the agreement.

10. A provision that clarifies any restriction on subsurface interests retained by the state or native corporations when the surface estate is conveyed to USFWS as part of the exchange. This provision is necessary to ensure both adequate protection for fish and wildlife resources and public use values from incompatible subsurface uses, and to protect the retained subsurface interests.

Thank you for the opportunity to comment on the draft land exchange agreement. While no final decision has been made by the state on the advisability of the land exchange concept, we have attempted here to make constructive comments for your consideration. As with the draft stipulations, we anticipate further opportunities to review and comment on the proposed exchange agreement. If you have any questions concerning this letter please contact me at the Governor's Office in Washington, D.C.

Sincerely,

Martha A. Fox
Special Assistant Attorney General

Enclosure

cc: Lieutenant Governor Stephen McAlpine, Juneau
Commissioner Judy Brady, DNR, Juneau
Commissioner Dennis Kelso, DEC, Juneau
Commissioner Don Collinsworth, DFG, Juneau

John Katz, Office of the Governor, Washington, DC
Rod Swope, Office of the Governor, Juneau
Bob Grogan, Division of Governmental Coordination, Juneau

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 29, 1986

Ms. Sharon Allender
Division of Conservation
and Wildlife
Office of the Solicitor
Department of the Interior
Eighteenth and C Streets, NW
Washington, DC 20240

Dear Ms. Allender:

You have invited the State of Alaska to comment on the draft land exchange agreement between Koniag, Inc., and the United States that could result in certain oil and gas rights in the Arctic National Wildlife Refuge being transferred to Koniag, Inc., the draft stipulations that were enclosed as Appendix 4 to the draft exchange agreement, and the proposed tract selection process for such exchanges which was discussed at a work session during the week of December 1.

With regard to the Department of the Interior's proposed land exchanges, the state has two principal areas of responsibility: (1) as a landowner and potential participant in phase one of the exchange process, and (2) as a sovereign steward of natural resources. This second role has two distinct aspects: (a) the state's role as a protector of the environment through the police power, and (b) the state's role, in the nature of a fiduciary, reviewing the concept of land exchanges with third parties and the affect of such exchanges on the overall interests of Alaska generally. The comments we are making at this time reflect only our very brief review of the draft exchange agreement, draft stipulations and proposed tract selection process from the perspective of land owner and sovereign with police power; our review from the broader overall state interest perspective is still underway.

With respect to this broader review, the most critical unanswered question may be whether the concept of exchanges will advance or hinder the opening of the Arctic National Wildlife Refuge (ANWR) to oil and gas development, a question which applies both to the

substance of such exchanges and the process under which they will be negotiated and consummated. That question has profound implications for both the state and the nation, but is not the only issue the state must consider. Other issues which the state will examine include the affect of such exchanges on the potential employment of resident Alaskans in any development which might occur, the state's existing right to a 90 percent share of mineral leasing revenues from public lands under the Mineral Leasing Act, and other state revenue implications from severance taxes, production taxes, corporate income taxes, etc.

In short, there are numerous questions which the state will answer before determining that such land exchanges are in the best interest of both the state and the nation. Accordingly, these comments should not be viewed as agreement that such exchanges are positive from either a state or national perspective. The state's final position on leasing in ANWR, including land exchanges and required mitigation measures, will be conveyed to the Secretary of the Interior when we formally respond to the draft ANWR 1002(h) report.

While a final decision regarding the advisability of such exchanges cannot be made at this time, Governor Cowper has directed appropriate state agencies to review the draft exchange agreement, the draft exchange stipulations and the proposed tract selection process on the assumption that such exchanges ultimately will be found to be in the public interest. Accordingly, while the state has not made a final decision on exchanges, our comments are intended to ensure the viability of the exchange process in the event it is concluded that such exchanges are advisable. In other words, our goal in these comments is the same as yours: to ensure that the exchange process, if implemented, acutally works.

In this letter, we comment only on the draft exchange stipulations and proposed tract selection process. We will transmit our comments on the draft exchange agreement early next week.

DRAFT EXCHANGE STIPULATIONS

As you are aware, the draft stipulations included in Appendix 4 address many of the major issues associated with the draft ANWR 1002(h) report that is currently being circulated for public review and comment. In light of this, the state recommends that the stipulations to the transfer agreement not be adopted until after public views have been considered on the draft ANWR 1002(h) report and the draft ANWR 1002(h) stipulations have been finalized. At that time the State of Alaska will be better able to provide detailed advice regarding the draft transfer stipulations, and the U.S. Fish and Wildlife Service will have had an

opportunity to consider the views of other individuals and entities.

However, as you requested, we have prepared preliminary comments on the draft stipulations. Given the extremely short period of time in which we have been asked to review and comment on the draft land exchange agreement, our comments are preliminary and subject to change pursuant to further opportunities to review both the draft land exchange agreement and the draft ANWR 1002(h) report. The state has had sufficient time only to accomplish a cursory review of the draft exchange agreement. The state will need to play a strong role in ensuring that any activity in ANWR occur properly. In the course of our review, the state agencies identified many significant issues which will require further analysis before we can comment. These issues include, but are not limited to, caribou calving and insect relief areas, stream setbacks, mitigation, decision-making criteria, and rehabilitation requirements.

The state review did uncover the following general issues which are very significant and need to be appropriately addressed in the Department of the Interior's land exchange process.

Coordinated State/Federal Process for Design Review, Permitting, Field Surveillance, and Compliance and Enforcement

The state believes that it would benefit all parties to provide a process for coordinating review, permitting, field surveillance and compliance and enforcement efforts between federal, state, and local authorities.

Language currently in the proposed land exchange agreement is of concern to the state. Specifically, Appendix 4 states that the plan of operations:

> Shall be submitted for approval to the regional director and shall include information necessary to satisfy all associated federal, state, and local permitting actions. The operator is responsible for securing all other applicable permits prior to initiation of any activities pursuant to the . . . Special Use Permit. (Section 4, page 15).

This process for submitting information for a plan of operations and securing an approval and Special Use Permit should identify or acknowledge existing regulatory requirements and identify or acknowledge the wide range of existing permits and authorizations governing these activities. The agreement should address different agencies' review times or public notice requirements or requirements for compliance with the Alaska Coastal Management Program, and its associated coordinated state review process.

Agencies with jurisdiction in these activities include state agencies such as the Alaska Oil and Gas Conservation Commission, Alaska Department of Environmental Conservation, Alaska Department of Fish and Game, Alaska Department of Natural Resources, and Governor's Division of Governmental Coordination; federal agencies such as the U.S. Environmental Protection Agency and Corps of Engineers; and the North Slope Borough.

The requirements listed in Appendix 4 of the draft exchange agreement for submission of information in the plan of operations largely parallel requirements of existing state and federal permits and authorizations. Issues that must be addressed include how individual agency enforcement actions taken pursuant to their own statutory remedies will be coordinated with compliance actions taken by the regional director. In addition, direction must be given for coordinated field surveillance and provisions for field approvals. Without a coordinated permitting and enforcement process, each agency will deal with the operator on an independent basis, calling for individual information requirements, timeframes for securing permits and authorizations, permit conditions and stipulations, field surveillance and enforcement actions.

The current language in Appendix 4 suggests that the regional director is empowered to perform all of the review, permitting, surveillance and enforcement functions of the combined agencies. For example, item 3.5(f)(7) states that the operator:

> Shall comply with applicable federal laws and regulations and with applicable state and local laws and regulations, the requirements of which are not inconsistent with the Agreement . . . .

The state is concerned with this approach. A land exchange agreement between two parties should augment but not seek to replace applicable federal, state, and local legal requirements.

The state believes that a process for coordinating the various governmental authorities applicable to the subject oil and gas activities would help avoid duplication, confusion, higher costs, inconsistencies, and delays. The state urges the Department of the Interior to provide for an acceptable means of management oversight for oil and gas development activities in the ANWR.

Reclamation and Rehabilitation

Reclamation and rehabilitation of disturbed areas in the range is a very important issue to the state. Reclamation and rehabilitation provisions contained in Appendix 4 should be better defined and technically supported. Considerable discussion and further consideration of this important issue is necessary.

Please refer to the additional comments we have provided on this issue in Enclosure 1 of this letter.

Development and Production Activities

Appendix 4 of the draft land exchange document primarily addresses the exploration phase of oil and gas activities. All subsequent phases including development and production and transportation need to be more fully addressed in the final agreement.

Enclosure 1 of this letter contains a brief discussion of major issues which we have identified that are either not addressed, inadequately addressed, or inaccurately addressed in the land use stipulations contained in Appendix 4 of the draft land exchange agreement. In particular, for environmental protection issues, many of the proposed stipulations inaccurately characterized existing regulatory requirements. Enclosure 2 of this letter contains page specific comments that have been made in red ink in the margins of a copy of Appendix 4 of the draft exchange agreement. Page specific comments that were too lengthy to make in the margins have been typed on a sheet of paper and inserted in the appropriate location of Appendix 4. The page specific comments may not identify all of the deficiencies in Appendix 4, but reflect those inadequacies that could be noted during the review time available. We were not able to complete review of all the stipulations.

PROPOSED TRACT SELECTION PROCESS

The comments which follow reflect the state's review of the Department's proposed ANWR tract selection process for proposed land exchanges which was distributed at the work session the week of December 1. This review should not be considered at this time as agreement that such exchanges are positive from either a state or national perspective.

Reliability of ANWR Tract Valuation

The state's best professional judgement is that geophysical data available for ANWR are not sufficient to enable a reliable tract specific valuation for tracts of the dimension selected by the Department of the Interior for exchange purposes. The seismic grid in ANWR is large (three miles by six miles), and no subsurface well data are available for assessing the stratigraphic parameters which would be essential components of any simulation model to calculate subsurface resource values. The geophysical survey grid in ANWR is so large that an interpreter could easily miss several giant oil fields in the order of Endicott, Seal Island, and Point Thomson. With these facts in mind, we find the proposed tract valuation procedures technically unsupportable and inadequate.

Further, unless a competitive tract selection process were established, additional geological and geophysical surveys would be required to determine values for purposes of any exchanges.

Valuation of Participants' Trade Lands

The state has reservations over the Department's proposed process to enhance the fair market appraisal value of candidate exchange lands through the application of public interest value adjustment criteria. As we understand this process the Department negotiates individually with each exchange participant to arrive at a final approved value for all candidate exchange lands.

Although it may be appropriate to adjust appraisal values to factor in the Department's acquisition priorities, such adjustment should be based upon established criteria and uniformly applied.

Schedule for Tract Selection by Participants

The state is concerned that participants in any exchange are expected to select tracts before it is known which tracts are available for leasing, what stipulations or restrictions are attached to each tract, what provisions exist for roads and pipeline rights-of-way, and before a satisfactory process of conflict resolution is established. For these reasons, selection of tracts should not take place until Congress has acted upon the recommendations of the Department regarding leasing and development of the coastal plain.

Conflict Resolution

The conflict resolution process should be as simple as possible and equitable in both appearance and application. To achieve these ends, the state recommends that the mechanism for resolving conflicts be straightforward, consistent and self executing, rather than reliant on the discretion of Department officials. The unguided discretion contemplated in the proposal makes the process appear arbitrary. It is preferred that there be but one process spelled out to provide specific direction to the Department to resolve specific tract selection conflicts.

Second, the state opposes the use of the Department's proposed priority ranking of the participants' land as a means of resolving conflict. The Department's acquisition priorities will be reflected in the valuation of the participants' land packages. This valuation already provides adequate assurance that the Department will acquire the land it desires. Using a priority system to resolve conflicts would in effect be double counting the value of the land to the Department of the Interior. The

state, therefore, recommends that this method of resolving conflicts be dropped.

Finally, in the event the proposed tract selection process is adopted, it is our view that the Department should not relegate prospective additions to the national park system to a lower priority than refuge additions as candidate lands for exchange. The Department should conduct a single round of tract selections in which the value of state lands of interest to the federal government, as park or refuge additions, would be the basis of tract selection by the state.

Thank you for the opportunity to comment. We anticipate further opportunities to review and comment on the proposed land exchange process. We will continue to refine our comments on land exchanges and necessary mitigation measures as we develop our formal response on the draft ANWR 1002(h) report.

Sincerely,

Eric Lacheverr

Eric Lacheverr
Associate Director
for Fisheries and the Environment

Enclosures

cc w/enc: Lieutenant Governor Stephen McAlpine, Juneau
Commissioner Don Collinsworth, DFG, Juneau
Acting Commissioner Robert Arnold, DNR, Juneau
Acting Commissioner Keith Kelton, DEC, Juneau
John Katz, Office of the Governor, Washington, DC
Lennie Gorsuch, Office of the Governor, Juneau
Rod Swope, Office of the Governor, Juneau
Tom Koester, Department of Law, Juneau
Kurt Fredriksson, DGC, Juneau
Jim Eason, DNR, Anchorage
Tom Hawkins, DNR, Anchorage
Robert Butts, DNR, Juneau
Norman Cohen, DFG, Juneau
Al Ott, DFG, Fairbanks
Dick Shideler, DFG, Fairbanks
Lance Trasky, DFG, Anchorage
Claudia Slater, DFG, Anchorage
[redacted], DFG, Juneau
Larry Dietrick, DEC, Fairbanks
Dan Wilkerson, DEC, Anchorage
Mike Wheeler, DEC, Anchorage
Sally Gibert, DGC, Anchorage

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MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING AND GEOLOGY

TO: Bob Arnold
Acting Commissioner

DATE: December 8, 1986

FILE NO:

TELEPHONE NO: 762-2171

FROM: Laurel A. Murphy
Acting Director, DMGGS
Jim Eason
Director, DOG

SUBJECT: Request for Tract Evaluation of ANWR

A memo of November 24, 1986 from former Commissioner Wunnicke requested a detailed hydrocarbon resource assessment of recoverable reserves on the ANWR Coastal Plain, and an economic evaluation on a tract specific basis of the estimated reserves for the purpose of evaluating potential land exchanges with the federal government.

At this time, the state does not possess sufficient data (either seismic or well data) to accomplish either task with a degree of reliability that would inspire confidence in the resulting estimates.

The Department of the Interior has used the PRESTO II computer simulation model to arrive at recoverable oil values for individual prospects and tracts in ANWR. The model uses prospect-specific geologic and geophysical input parameters, geologic risk factors, an assortment of economic assumptions, and "Monte Carlo" simulation techniques to establish dollar values on given tracts. The grid employed by Interior in its ANWR analysis is nine tracts per township (four one-mile square sections per tract). The modelling procedures are well documented and are routinely used by the Minerals Management Service to derive petroleum resource estimates for OCS planning areas. The resource estimates are then used to evaluate (accept or reject) competitive bids.

This modelling is similar to the State's economic evaluation process used to establish competitive bid terms for State oil and gas lease sales.

However, perusal of the draft DOI ANWR document reveals that they have applied sophisticated modelling procedures to data that we regard as inadequate/unreliable for the purposes of such a detailed analysis. Therefore, their estimates must be considered suspect. The attempt to estimate dollar values for tracts from the currently available ANWR database stretches the methodology beyond meaningful results.

The professional staff at DM&GGS and DO&G, in their best professional judgment, believe that the ANWR data available to the state is not sufficient to enable a reliable tract evaluation. The seismic grid in ANWR is quite large (three miles by six miles) and no subsurface well data are available for assessing stratigraphic parameters. The geology of the area is extremely complex, and wide "no data" zones exist on the available seismic lines. Making matters worse, the economic assumptions necessary for establishing dollar values have an extremely wide variance.

Consider the fact that the seismic grid in ANWR is large enough to miss giant oil fields such as the Endicott, Seal Island, and Point Thomson accumulations. More subtle traps such as the Kuparuk accumulation could most definitely be missed, as well. A reliable seismic grid used to evaluate state and federal OCS areas is rarely less than one mile by one mile, and oftentimes approaches one quarter mile square spacing.

Map scale is also a function of the level of detailed data available. For example, in ANWR the most detailed seismic map producible, reliably, from the data is only 1:250,000, a full 2.5 to 5 times less detailed than the 1:96,000 or 1:48,000 scales usually attainable for tract evaluation purposes. In ANWR many of the "prospects" are inferred from evidence on only one or two seismic lines, and closure cannot be demonstrated.

In the federal OCS, prospects are much better delineated than in ANWR. The seismic coverage is considerably tighter and normally one or two stratigraphic wells provide subsurface stratigraphic information.

In fact, many within DOI agree with the professional judgment outlined above, but presumably for political considerations have, chosen to stretch the limits of the data to derive an unreliable dollar value for very small tracts on the Coastal Plain.

Finally, people can reasonably disagree over the economic assumptions used to attach dollar values to the reserve estimates. Different opinions concerning future oil prices, development costs, timing of development, transportation costs, and discount rates can individually or in concert substantially affect dollar values. Thus, economic uncertainty is combined with the lack of detailed geologic data to yield inaccurate dollar estimates of resource values. Neither mathematical manipulation, no matter how sophisticated nor probability theory can change doubtful data into positive scientific fact.

With these facts in mind, the staff recommends a "ranking" type evaluation procedure in order to best utilize the data available and maximize the reliability of results. This procedure will use all available seismic and geologic data to weigh relative resource potential of individual townships or, in the case where confidence is sufficiently high, partial townships. Using a variety of geologic and geophysical criteria, such as inferred trapping mechanism, reservoir potential and size of inferred prospects, [redacted] relative rankings can be attached to individual townships with a comfortable degree of confidence. This process is currently being pursued and can be completed by January 15, 1987.

The staff further recommends that the State immediately enter into discussions with DOI for the purpose of developing a Memorandum of Understanding that assures State participation in developing tract specific value criteria for the Coastal Plain.

The complexity and diminished relative value of probability distributions, resource assessments and tract specific economic evaluations under these circumstances should be made clear to other staff who may be involved in the ANWR work. We would welcome the opportunity to present greater detail and answer any questions you may have.

LAM/JE/lkb/2946M

cc: James K. Barnett
Tom Hawkins
Gary Gustafson

MEMORANDUM

State of Alaska

To:
Esther C. Wunnicke
Commissioner

Date: November 12, 1986

File no: 9105

From: Gary Gustafson, Chief
Land Management
Land and Water Management

Telephone no: 762-4346

Subject: ANWR Trade

THE ISSUE

You have asked for an update on the status of proposed land exchanges involving the Arctic National Wildlife Refuge (ANWR) as well as recommendations to outline those actions and finances necessary for the state to participate in exchanges. Accordingly, I have included a background and summary report of these exchange negotiations and recommend the immediate appointment of an ANWR Exchange Team to advance state interests.

The 1.5 million acre Coastal Plain of ANWR is considered highly prospective for oil and gas by knowledgeable observers. As a result, Section 1002(h) of the Alaska National Interest Lands Conservation Act (ANILCA) directed the Secretary of the Department of Interior (DOI) to prepare a report together with his recommendations ".... with respect to whether further exploration for, and the development and production of, oil and gas within the Coastal Plain should be permitted ...."

In anticipation of the release of this report and a subsequent decision by Congress to open the Coastal Plain to oil and gas exploration and development, DOI has been engaged in land exchange negotiations with several Native corporations formed pursuant to the Alaska Native Claims Settlement Act (ANCSA). More particularly, the U.S. Fish and Wildlife Service (USFWS) proposes to trade oil and gas rights within ANWR's Coastal Plain for ANCSA village and regional corporation lands (surface and subsurface estate) within or adjacent to components of the national wildlife refuge system in Alaska.

Land exchange negotiations between the DOI and several ANCSA corporations have progressed to the point that values for the proposed trade lands have been established and the ANCSA corporations will soon be allowed to make oil and gas right tract selections in the Coastal Plain. Although there will likely be opportunity future trades, the ANCSA corporations (armed with

industry expertise) can be expected to acquire the most valuable prospective tracts in the first round of any exchanges. Given the advanced status of these negotiations, the state must act quickly if it is to interject itself as a viable player in the initial ANWR land exchange efforts.

BACKGROUND REPORT

DOI Exchange Team

The ANILCA Section 1002(h) report referenced above was originally scheduled to be submitted by the Secretary of the DOI to Congress by September 2, 1986. However, environmentalist- sponsored litigation, dealing with whether the report requires public input and a revised Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA), has delayed release of the report. The Secretary is expected to release the report on November 24, 1986. Once released, Congress will review the report and decide the future management regime to govern activities on ANWR's Coastal Plain.

At the same time the ANILCA Section 1002(h) report was being prepared, DOI began land trade negotiations with ANCSA corporations. Informal discussions occurred over two years ago and soon progressed to the point that many ANCSA lands were identified and appraised. Most of these discussions occurred in Washington, D.C. and involved Bill Horn, DOI Assistant Secretary for Parks and Refuges. In an effort to standardize negotiations among the interested corporations as well as to better define federal land management objectives, DOI has appointed an ANWR Land Exchange Team made up of the following five individuals:

Sharon Allender, USFWS Solicitor, Washington, D.C.
Jim Gillette, USFWS Realty Chief, Washington, D.C.
Ted Stephenson, BLM, Alaska Program Staff, Washington, D.C.
Paul Kirton, Solicitors Office, Washington, D.C.
John Doebel, USFWS, Asst. Secretary's Liaison, Anchorage

In addition, the USFWS Alaska State Office in Anchorage had been actively involved, particularly Bob Gilmore, State Director and John Rogers, Director Gilmore's Assistant. Mr. Doebel is responsible for keeping Assistant DOI Secretary Bill Horn abreast of all negotiations.

ANWR Oil and Gas Valuation

In 1980, prior to the acquisition of seismic and other geophysical data and other information on the Coastal Plain, the U.S. Geological Survey (USGS) estimated that there was a five percent probability that the Coastal Plain could contribute up to 17 billion barrels of crude oil and 34 trillion cubic feet of

natural gas. USGS also estimated there was a mean probability that the Coastal Plain could contain up to 4.85 billion barrels of crude oil and 12 trillion cubic feet of natural gas.

Under terms of ANILCA, geophysical surveys of the Coastal Plain had to be completed before December 2, 1985. Approximately 600 line miles of geophysical data were acquired during the winter of 1983-84, with another 580 lines miles run during the winter of 1984-85. These data and their subsequent analysis will form the basis of the ANILCA Section 1002(h) report to Congress.

According to oil industry, state and federal estimates, ANWR is considered to have potential oil and gas resources in excess of one-third of the current U.S. oil reserves and probably more than the initial reserves at Prudhoe Bay. Specific federal estimates should be included in the ANILCA 1002(h) report.

However, prior to the completion and release of the 1002(h) report, the DOI has assigned preliminary values (based upon oil and gas potential) to lands within the Coastal Plain. For purposes of the proposed land trades, DOI has divided the Coastal Plain into tracts of 2,560 acres each. These tract sizes were derived by dividing each township (23,040 acres) in nine equal component parts. Each tract, therefore, consists of four sections (640 acres x 4 = 2,560 acres). This parcelization is similar to that used for federal oil and gas lease sales. Using the above described tract grid, DOI has numbered and assigned a prospective value to each 2,560 acre tract. These values will be kept confidential until the proposed exchanges actually occur.

It appears to be DOI's intent to allow the corporation's to use the appraised value of their lands to select and acquire Coastal Plain oil and gas tracts. The method of acquisition would be similar to a Monte Carlo game, in that oil and gas tracts would be selected and acquired without prior knowledge of their estimated value. Thus, armed with oil company exploration knowledge, the corporation's are likely to select the most promising tracts.

The department's Division of Mining and Geology has also completed a report concerning the subsurface resources and prospective value of the ANWR Coastal Plain. This state report was completed some time ago and has remained confidential, pending release of the ANILCA Section 1002(h) report. The 1002(h) report was partially based upon information obtained from the state.

ANWR Land Status

Originally established in 1960 as the 8.9 million acre Arctic National Wildlife Range, ANWR now includes about 19 million acres. The Coastal Plain consists of 1.5 million acres (approximately eight percent of ANWR's total acreage). Managed by the USFWS, the Coastal Plain has only one in-holding, the large surface and subsurface estate owned by the Village of Kaktovik and the Arctic Slope Regional Corporation (ASRC) respectively.

Pursuant to Section 12(a) of ANCSA, the Kaktovik Inupiat Corporation on Barter Island in ANWR, selected 92,160 acres along the Beaufort Sea. However, a provision of ANCSA required ASRC, which normally would have acquired the subsurface estate under Kaktovik's surface estate, to select in-lieu subsurface acreage outside ANWR and NPRA. In August, 1983, ASRC exchanged about 100,000 acres of this in-lieu subsurface entitlement near Chandler Lake in the Gates of the Arctic National Park for 92,000 acres of subsurface rights in ANWR under the Kaktovik Inupiat Corporation land. The land trade preempted another process established by Section 1431(o) of ANILCA, whereby ASRC could have obtained these same lands at a later date, provided Congress opened the Coastal Plain to commercial oil and gas development within 40 years and ASRC selected land within 75 miles of Kaktovik's land. The attached map depicts the Kaktovik and ASRC ownership on the Coastal Plain.

Native Exchange Efforts

At the present time, there are four groups of Native interests involved in ANWR land exchange efforts. Koniag, the Kodiak-based village/regional corporation merger, has been involved in trade discussions with the USFWS for almost two years. Koniag owns several areas of land (e.g. Karluk River) of great interest to USFWS due to their location within the Kodiak National Wildlife Refuge. The Koniag ANWR Team is headed by Bill Timme, Art Kennedy and Bob Putz (former USFWS Alaska Director). A draft exchange agreement has been drafted and Koniag's lands were appraised last winter by a team of DOI appraisers. The initial exchange agreement has now been redrafted following recent meetings in Washington, D.C.

Another ANWR trade package has been assembled by DOYON, Ltd., based in Fairbanks. I have been unable to obtain much information concerning this proposal. Presumably, however, most or all of DOYON's land was also appraised last winter by the USFWS. The Akhiokaguyak Corporation, located on the south end of Kodiak Island (not part of Koniag), has also advanced a proposal to trade up to 100,000 acres to the USFWS.

The newest and largest ANWR trade package has been assembled by a Native corporation consortium headed by Cook Inlet Region, Inc. (CIRI) the Anchorage based regional corporation. Consisting of village corporation lands from the Bristol Bay, Calista and DOYON regional areas, as well as CIRI land holdings within the Kenai National Wildlife Refuge, this consortium has moved rapidly to present a very attractive trade package to the USFWS.

The CIRI ANWR Team is headed by three experienced land traders, Margie Sagerser, Mark Rindner and Michael C. T. Smith. Ms. Sagerser is a CIRI Board member and former CIRI vice-president for land management. Mark Rindner is a private attorney who has handled land use matters for CIRI. Michael C. T. Smith is a former DNR Deputy Commissioner and current land use consultant, often retained b, CIRI. Ms. Sagerser and Mr. Smith were previously the principals in the 1976 Cook Inlet Land Trade.

Certainly in the case of the Koniag and CIRI, and probably that of DOYON, oil company money is a driving force and interest. Those companies rumored to be helping finance corporation trade efforts include ARCO, Texaco and Exxon.

It is evident that the corporations are well organized, financed and on the verge of consummating preliminary land exchange agreements with the USFWS. Thus far the corporations view the state as a possible competitor for key ANWR lands and have been reluctant to provide the state with much information. In addition, they undoubtedly fear the state might choose to oppose ANCSA trades in ANWR due to the loss of our 90 percent royalty share from federal leasing.

With the exception of some of the CIRI Team lands, the USFWS has appraised all ANCSA lands proposed for exchange. However, these federal appraisals must still be adjusted to account for public interest values. These adjustments are part of the on-going negotiations.

State Exchange Efforts

After learning of possible land trades between ANCSA corporations and the USFWS involving ANWR, you asked the department to initiate the trade discussions with the USFWS in late 1985. In February, 1986, Tom Hawkins, director of the department's Division of Land and Water Management, wrote Bob Gilmore, USFWS State Director to formally propose a state/federal land trade involving ANWR.

At that time, the department offered 12 million acres of state land holdings within or adjacent to national parks or refuges in Alaska as candidates for trade. Included were very important

habitat areas such as the Shearwater Peninsula and Marmot Island at Kodiak, the Black Hills caribou calving grounds on the Alaska Peninsula, trumpeter swan nesting area in the Copper River basin and state inholdings near McCarthy in the Wrangell-St. Elias National Park.

Mr. Gilmore responded in March, 1986, claiming that only the state lands within the Tetlin National Wildlife Refuge merited high priority for USFWS acquisition by trade. The remaining state lands were referenced as having only low to moderate USFWS acquisition interest.

In October of 1986 during a trip to Washington, D.C., you discussed the ANWR trade matter with Bill Horn, DOI's Assistant Secretary for Parks and Refuges. Mr. Horn apparently relayed that DOI was interested in a state/federal ANWR trade, and that state lands in national park units were acceptable trade candidate areas. This prompted the state to reassemble its ANWR trade package, expanding the list of candidate state lands to include numerous areas of interest to the NPS. Mr. Horn also continued to assure you and John Katz that DOI would keep the state informed of the progress of DOI/ANCSA Corporation trade efforts. Unfortunately, it is now evident that much has occurred without state consultation.

On the basis of the Washington, D.C. discussions, Director Hawkins once again wrote Mr. Gilmore of the USFWS to try and solidify a state land trade proposal. Included in this revised state trade proposal were in-holdings within national parks for which the NPS has a long-standing interest (e.g. McCarthy, Wolf townships, Kamishak, etc.). We have not yet received a response to this latest state trade proposal.

RECOMMENDATION

The advanced status of the DOI/ANCSA Corporation land exchange negotiations requires an immediate and accelerated response from the State of Alaska. Assuming the Coastal Plain of ANWR is opened to oil and gas development by Congress in the near future, the State may assume two postures in order to protect or enhance its interests.

First, the State must seek proforma to preserve its 90 percent royalty interest from federal oil and gas lease sales, pursuant to the Mineral Leasing Act. Although some may suggest our 90 percent royalty is an excessive state benefit in this time of federal budget austerity, the State should do everything within its means to avert the loss of revenue which might accrue to the state.

Second, and coincident to attempts to maintain the State's current federal lease royalty percentage, the State should immediately advance its own land trade proposal and join the ANCSA corporations at the starting gate of the ANWR selection race. This means the State has to quickly identify a trade package of state lands and proceed to have them appraised in time for submission of a trade proposal to the legislature. Because state land appraisals will likely be completed later than the normal legislative exchange submission deadline established by AS 38.50, the governor will have to submit the exchange at a later date, following a finding of exigent circumstances.

The following timeframe should be closely followed if the State is to be in position to join the ANCSA corporations in the initial ANWR tract selection process (estimated by March-April, 1987).

1. Brief Governor Bill Sheffield, Governor-elect Cowper and key legislators on the conceptual state exchange proposal and designate a state ANWR Exchange Team (November, 1986).

2. Finalize state land pool to be included in exchange (December 1, 1986).

3. Conduct fair market value appraisals of state lands proposed for exchange (February 15, 1987).

4. Submit proposed trade to Legislature for approval (February 20, 1987).

5. Enter into Preliminary or Conceptual Exchange Agreement with DOI (April, 1987).

The unique nature of this exchange will necessitate variances in the normal AS 38.50 process. These variances must be approved by the legislature as part of their final review of the proposal.

Obviously, there is a tremendous amount of work to be done between now and mid-March. The only way the State can hope to successfully assemble, market and deliver this exchange is to immediately identify and appoint a qualified multi-disciplinary ANWR Exchange Team and provide them with sufficient support (both administrative and financial) to complete the assignment. I have proposed below a rough outline of the personnel and funding necessary to accomplish the task. It is essential that Team members be the most experienced and capable staff members within their realm of expertise. Team members should be available for the project on a full-time basis for a three month period from November, 1986, to February, 1987, and at least part-time thereafter.

Personnel and Responsibilities

1. Governor's Office, Washington, D.C. - Congressional delegation liaison, coordination with DOI representatives in Washington, D.C., represent Governor's interests.

2. Staff member, Division of Mining and Geology - responsible for ANWR subsurface evaluation, coordination with government, industry interests related to resource information, legislative briefings.

3. Assistant Attorney General, Department of Law - preparation of legislation and exchange agreements, legal support, coordination with Solicitors Office.

4. Staff member, Division of Land and Water Management - responsible for assemblage of state exchange land, coordination of state agency involvement, appraisal process, legislative briefings, negotiations.

In addition, it is essential to involve other affected state agencies (e.g. ADF&G, DEC) regarding those issues within their responsibility or expertise.

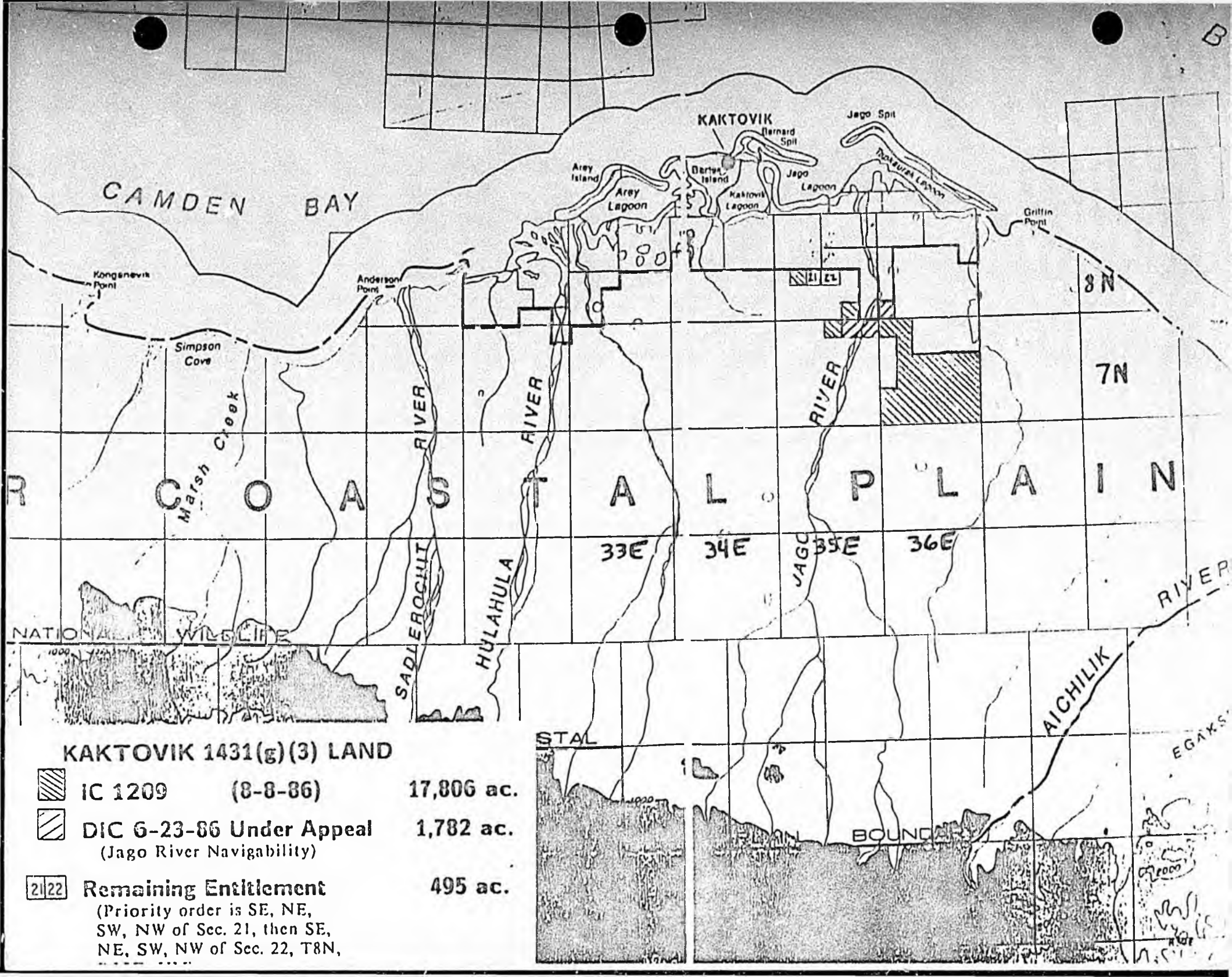
Financial

Primary costs are for appraisals and travel. Appraisals will likely be needed for substantial acreage of state land, and costs will be reduced if DNR uses in-house staff appraisers. Travel costs include several trips to Washington, D.C. for negotiations with DOI officials as well as several Juneau trips for legislative briefings.

Travel (2 team trips to Washington, D.C., 5 team trips to Juneau)	$15,000
Appraisal (charter flights, etc.)	$25,000
Other contractual (maps, aerial photos, printing, postage copy)	$9,800
Equipment (filing cabinet)	$200
Total Estimated Project Budget	$50,000

Finally, because the Secretary is expected to release the 1002(h) report on November 24, 1986, it would be advantageous to publicly announce the formation of a state ANWR Exchange Team no later than November 21, 1986.

GG/jlh
ATTACHMENT
cc: Jim Eason, DO&G
Laurel Murphy, DM&G
Rich Kornbrath, DM&G
John Katz, Gov. Office, Washington, D.C.
Bob Arnold, CO
Jim Barnett, CO
Ned Farquhar, CO
Tom Koester, AGO
Norm Cohen, ADF&G
Tom Hawkins, DLWM



KAKTOVIK 1431(g)(3) LAND

IC 1209	(8-8-86)	17,806 ac.
DIC 6-23-86 Under Appeal (Jago River Navigability)		1,782 ac.
21 22 Remaining Entitlement (Priority order is SE, NE, SW, NW of Sec. 21, then SE, NE, SW, NW of Sec. 22, T8N,		495 ac.

MEMORANDUM
DEPARTMENT OF NATURAL RESOURCES

State of Alaska
DIVISION OF OIL AND GAS

TO: The Honorable Stephen McAlpine
Lieutenant Governor

DATE: December 17, 1986

FILE NO.:

THRU: Robert D. Arnold
Acting Commissioner
Department of Natural Resources

TELEPHONE NO.: 762-4241 (Eason)
762-4355 (Hawkins)

SUBJECT: Arctic National Wildlife Refuge

FROM: James E. Eason, Director, DO&G
Tom Hawkins, Director, DLWM

It is apparent to us that the ANWR land exchange and leasing decisions are becoming quite complex, and that the development of a successful state strategy will involve the participation of a fairly large number of state employees in Juneau, Anchorage and Washington, DC. We also believe that there will be great pressure for the state to remain "reactive" to the policy initiatives of the Department of the Interior (DOI), rather than asserting its own goals for the development of ANWR and lobbying effectively to see that those goals are met.

The state is entitled to 90 percent of the revenues that will be generated from the leasing and development of ANWR provided Congress agrees to allow leasing of the Coastal Plain, and provided Congress takes no affirmative action to reduce the state's entitlement. However, it is clear that the state's prospective share of revenues from ANWR may be reduced dramatically or effectively eliminated if the land exchanges contemplated by the DOI are effected without some express provision for retaining the state's revenue interests.

The next land exchange meeting with the DOI is scheduled for January 12, 1987. By that time, the state should decide which alternatives it wishes to pursue. If the decision is to pursue exchanges, we will need to develop a position on the methodology to be used in evaluating exchange options and the timing of tract selections.

In developing the state's position, it is important to consider the impacts our participation in exchanges may have in potentially foreclosing other options available to the state. To fully protect the state's interests, including its current entitlement to 90 percent of the ANWR leasing revenues, we recommend adoption of the following position statements for guidance to state agency employees who will participate in the development of the state's position on ANWR.

We believe that a concise straightforward policy statement from your office would assist in guiding the department's participation in the ongoing land exchange negotiations, in providing impetus to explore fully the state's alternatives to exchanges and in providing direction for the state agencies involved in the development of state comments on the draft 1002(h) ANWR study (comments due to DOI by January 22, 1987).

As a first step in developing the state's position on these issues, we believe that it would be in the state's interest to request that the DOI extend the January 22 due date for comments on its ANWR study and recommendations. Additional time will be needed to develop a unified position on several critical ANWR issues. As the affected state agencies work to develop a consensus position, we recommend that the following considerations guide their efforts.

1. It is the state's first priority to assure that the Coastal Plain of the Arctic National Wildlife Refuge should be opened for oil and gas leasing, exploration and development. The Coastal Plain has extraordinarily high potential for large oil and gas discoveries.

2. The state should assure reservation, to the extent possible, of its current 90 percent entitlement of potential ANWR oil and gas revenues. Long-term state revenue needs must be considered in determining the state's course of action.

3. Opening the Coastal Plain to leasing and development could provide the following economic benefits to the state:

   (a) Additional bonus, rent and royalty revenues to the state (90 percent federal revenue sharing);

   (b) Additional production and corporate income tax base (all production except governmental royalty interest would be subject to state production tax);

   (c) Enhanced value of the federal OCS areas offshore of ANWR, and consequently incremental 8(g) revenues to the state;

   (d) Enhanced the value of the KIC/ASRC lands within ANWR, resulting in incremental production tax revenues to the state;

   (e) Enhanced value of the state's tide and submerged lands proposed for oil and gas leasing offshore of ANWR;

   (f) Enhanced value of state uplands and submerged lands adjacent to ANWR; and

   (g) Provision of new jobs for Alaskans.

4. The state should participate in ANWR land exchanges and endorse ANWR land exchanges only after a determination that it is in the state's overall best interest, and that the state's participation does not unduly reduce its alternative entitlements. A decision to continue participation in exchange negotiations should be guided by the following considerations:

(a) Tract selection (or any other form of a land exchange) should not take place until the final 1002(h) study has been submitted to Congress. It may even be necessary to delay final tract selection until after Congress approves the opening of the Coastal Plain to leasing and development.

One of our primary goals, Congressional approval of the development of the Coastal Plain of ANWR, may be threatened by trade negotiations before Congress has had an opportunity to review final DOI recommendations. Congress might take offense at trades made at a time when DOI was under a mandate to study and recommend alternatives to Congress, rather than acting to limit Congressional discretion. The possibility of a negative reaction by Congress is exacerbated by the fact that confidential trade talks are proceeding before DOI has even settled on a formal recommendation.

(b) Tract selection cannot take place until each party knows: 1) which ANWR tracts are available for leasing; 2) what specific restrictions and stipulations are attached to each tract; 3) what provisions are allowed for road and pipeline rights-of-way out of ANWR; 4) the appraised value of the lands to be exchanged; and 5) what method of conflict resolution will be employed during the tract selection process.

The nature of oil and gas rights to be granted in ANWR, and the environmental stipulations on those rights, are being defined in the confidential trade process. The secrecy surrounding the negotiations prevents the requisite input from Congress, oil companies, environmental groups and other interested parties. This process may result in the development of lease terms and stipulations which would engender opposition to opening legislation from some parties who otherwise would favor opening legislation.

(c) The tract valuation and land appraisal procedures must be realistic. Tracts cannot be valued with certainty prior to the finalization of exchange contract terms, access rights and operating/environmental stipulations.

(d) The state is willing to adhere to a realistic time line. However, since this is a once-in-a-lifetime opportunity, the state cannot support DOI's current accelerated decision-making process. Delay of the exchange negotiations would allow the state to weigh the benefits and detriments of state and native corporation trades on a sound basis. The value of state ownership of oil and gas rights, and the costs to the state of

DOI trades to native corporations, cannot be estimated realistically until it is known whether Congress has acted to reduce the state's 90 percent share of federal revenues from the development of ANWR.

Delay would also allow all parties to develop proposals for the trade of tracts known to be available for development. Trading will be uncertain and unfair if Congress later opens to development some, but not all, tracts which had been included in trades.

5. The state recognizes that environmental protection and mitigation of potential negative impacts to biological resources will be a necessary part of any oil and gas exploration and development activities allowed in ANWR. The state believes that potential impacts to caribou, musk ox, waterfowl, subsistence resources, and habitat can be successfully mitigated. Sufficient data, technology, and Arctic operating experience currently exist to develop measures consistent with both the ANWR management goals and the need to open the Coastal Plain to oil and gas leasing and development.

Finally, in conjunction with any land exchange with native corporations or as an alternative to direct state participation in a land exchange, the state may want to propose alternatives, such as retention of overriding royaly interests or undivided interests in production, to maintaining its existing 90 percent revenue entitlement on ANWR lands. However, in order to even have the opportunity to discuss alternatives, we feel that it is important that the state's firm intent to protect its existing revenue entitlement in ANWR be established as soon as possible. With proper notice of the state's intent and with a delay in the implementation of any exchanges which would materially reduce the state's rights, we will have ample opportunity to review all options carefully and to develop a coordinated strategy for protecting the state's interests.

JEE/TH/wfs0665C

RECEIVED
DEC 18 1986
DIVISION OF OIL & GAS
ANCHORAGE, ALASKA

The Honorable Stephen McAlpine
Lieutenant Governor
State of Alaska

December 10, 1986

Robert D. Arnold
Acting Commissioner
Department of Natural Resources

Specific Tract Values
in ANWR

Although the Department of Interior has established a grid system of 560 tracts of 2,560 acres each in ANWR for purposes of land exchanges and has reportedly assigned values to each, Interior will not disclose those values until after tract selection has taken place. Since the State may be among those selecting tracts, we asked our professional staff to review the resource data and provide us with estimates of values of specific tracts, and we have received a response.

In brief, the directors of the Division of Oil and Gas and the Division of Mining/Geological and Geophysical Surveys report as follows:

- For a number of reasons (such as the size of the seismic grid, complexity of the geology, uncertainties of oil prices) the ANWR data is not sufficient to reliably establish tract values;
- It is possible, however, to estimate relative values by ranking tracts, and this process will be pursued and completed by January 15, 1987;
- The State should enter into discussions with Interior, seeking a Memorandum of Understanding that would assure State participation in developing tract specific value criteria.

(On the last point, I am skeptical that Interior would welcome State participation, but I have not yet explored the idea with the staff).

If you desire further information or a briefing on this subject, please let me know.

Enclosure

cc: John Katz/with enclosure
Bob Grogan
Tom Koester

November 14, 1986

Robert E. Gilmore, Regional Director
U.S. Fish and Wildlife Service
1011 E Tudor Road
Anchorage, Alaska 99503

Dear Mr. Gilmore:

Some time has passed since we last discussed state participation in land exchanges involving the Arctic National Wildlife Refuge (ANWR). I feel it is appropriate to renew our discussion.

As you recall, last February I wrote to ask that you consider a large pool of state land for possible exchange. Included in the pool are almost 12 million acres with considerable habitat attributes, located within or adjacent to national park and wildlife refuges in Alaska. In March, you responded to my request by listing these state lands in priority of USFWS acquisition interest. You expressed particular interest in the state lands located within the Tetlin NWR and also indicated an interest in certain remaining state lands within the Tetlin NWR which we had inadvertantly failed to include in the pool. Finally, you concluded that most of the state lands are not a priority for acquisition by the USFWS due to various management constraints or because adequate resource protection might be provided through cooperative management agreements.

The possibility of oil and gas development within ANWR and the discussion of associated land trades continues to cast a highly visible profile. Accordingly, the state has clearly articulated its concern that state royalty benefits not be jeopardized if oil and gas development is authorized by Congress. One direct means to preserve these existing benefits is for the state to obtain oil and gas interests in ANWR through land exchanges with the Department of Interior.

Therefore, I am prepared to propose the inclusion of all state land within the Tetlin NWR as well as those state lands noted as "medium priority" in your March correspondence. This includes Marmot Island, Tugidak Island, state land within the Alaska Peninsula NWR, Black Hills, Kisaralik River, Copper River trumpeter swan nesting areas and Redoubt Bay. I am confident that this pool is sufficiently extensive that we can negotiate some combination of the above candidate areas for inclusion in an exchange proposal. In addition, the state continues to be willing to consider the

exchange of state lands in Alaska which may be of interest to other federal agencies, such as the National Park Service (NPS).

The NPS has indicated interest in several tracts of state land and the magnitude of the ANWR decision suggests the exchange discussion should address the broadest possible consolidation of federal interests in the state. We mentioned some of these areas in our earlier correspondence and offer a more complete list of potential candidates in the attached appendix. Although the exact mechanics of this aspect of a possible exchange will require additional staff work, we are eager to proceed with those steps necessary to value these lands for exchange purposes.

Subject to your agreement, I am prepared to draft a preliminary exchange agreement for your consideration. I expect this draft would represent a first step towards negotiating an exchange between our agencies. If you concur in this approach, please let me know. I suspect that we will need to get together again soon to discuss this matter in greater detail.

At your convenience, I would also appreciate an update on the status of your exchange negotiations involving ANCSA corporations. Recent discussion with your staff and others indicate you have made considerable progress. I believe it is extremely important for the state to continue to closely monitor your progress in this regard. In addition, I would also like to coordinate state exchange negotiations with those involving the ANCSA corporations so that the state can afford itself the same ANWR selection opportunity you propose to the corporations.

I appreciate your continued attention to this important matter and await your response.

Sincerely,

Tom Hawkins

Tom Hawkins
Director

cc: Esther C. Wunnicke, CO
John Katz, Washington D.C.

TH/GG/jlh

State Lands Within or Adjacent to N.P. Lands

1. Wrangell-St. Elias
   - °Selections east of Copper River
   - °McCarthy

2. Katmai
   - °Kamishak

3. Aniakchak Bay area
   - °1/4 township north side

4. Lake Clark
   - °eastern entrance
   - °western boundary
   - °Upper Chilakdrotna
   - °west of Stoney River
   - °calving areas in Bonanza Hills

5. Denali
   - °western boundary Swift Fork
   - °Wolf townships

6. Bering Land Bridge
   - °Serpentine Hot Springs

7. Gates of the Arctic
   - °southern boundary
   - °hydrographic divide

8. Glacier Bay
   - °Icy Bay

9. Kenai Fjords
   - °Nuka Island

REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

MAJORITY LEADER

1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-4031

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

MEMORANDUM

TO: Representative Sam Cotten
FROM: Representative Don Clocksin
DATE: October 23, 1986

RE: Briefing on ANWR issues by Commissioner Wunnicke

I have made an appointment with Commissioner Wunnicke for a full briefing on issues regarding the Arctic National Wildlife Refuge - including the specifics on possible land trades and subsurface rights, and impacts on Alaska's future revenues (see letters to and from the Commissioner, enclosed).

Our meeting is now scheduled for Tuesday, October 28, 3:00 pm in Commissioner Wunnicke's Anchorage office on the 12th floor of the Frontier Building.

I suggest you join us at this briefing, if your schedule permits.

Please let me know.

REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

MAJORITY LEADER

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WHILE IN JUNEAU:
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(907) 465-3704

Ms.Esther Wunnicke
Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

September 26, 1986

Dear Commissioner Wunnicke:

It has come to my attention that there are several complex issues involving the status of lands and petroleum reserves in the Arctic National Wildlife Refuge (ANWR). More particularly, I have been told that there are proposed trades of lands and subsurface rights involving the federal government, several Native corporations and the State of Alaska. I understand that much rides on the outcomes of these proposed trades, including the ability of the State of Alaska to have access to future revenue sources from the development of petroleum reserves in the ANWR.

I would very much appreciate a full briefing from appropriate people in your Department on these issues, including explanation of the particulars of the overall issues, the posture of the State with respect to them and the specifics of any and all trades of lands and subsurface rights being proposed by the federal government, the State of Alaska and every involved Native corporation. In addition, I am especially interested in knowing what impacts the outcomes of all proposed combinations of actions will have on the ability of the State of Alaska to have access to future revenues from petroleum development in the ANWR.

I appreciate your attention to this matter and look forward to hearing from you soon. Thanks very much.

Sincerely,

Representative Don Clocksin
House Majority Leader

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801
PHONE: (907) 465-2400

October 7, 1986

The Honorable Don Clocksin
House Majority Leader
Alaska House of Representatives
1024 West Sixth Avenue
Anchorage, AK 99501

Dear Representative Clocksin:

Thank you for writing to me about your interest in the land status and petroleum reserves of the Arctic National Wildlife Refuge (ANWR). I would be happy to meet with you to discuss ANWR issues as well as to bring you up-to-date on the status of proposed ANWR land trades.

I suggest that we meet on October 27 at 2:00 p.m. in my Anchorage office (12th Floor, Frontier Building). Land and Water Management Director Tom Hawkins will join us at this meeting and other staff will be available as necessary to provide appropriate information.

Please let me know if the October 27 meeting date is convenient. I have enclosed a copy of the state's position regarding oil and gas development in ANWR, as background information for our meeting.

Sincerely,

Esther C. Wunnicke
Commissioner

Enclosure

cc: Tom Hawkins
Jim Eason

10-J9LH

MEMORANDUM State of Alaska

DEPARTMENT OF NATURAL RESOURCES--DIVISION OF LAND AND WATER MANAGEMENT

TO: Bob Arnold
Deputy Commissioner

DATE: May 20, 1986

FILE NO:

TELEPHONE NO: 762-4355

FROM: Tom Hawkins
Director

SUBJECT: ANWR

This memo describes actions taken over the past few months to monitor ANWR land exchange activities and to advance state interest in potential exchange opportunities.

In early February ADF&G and ADNR jointly prepared a listing of candidate lands for possible exchange for presentation to the USF&WS (Appendix I). The list included more than 12,000,000 acres of state land within and adjacent to refuges and other ANILCA units. The listing emphasized lands which were primarily valuable for habitat and recreation resources. In March, Robert Gilmore, Alaska Regional Director for the U.S. Fish & Wildlife Service responded to the state's listing and indicated the interests of his agency.(Appendix II). In short the USF&WS marked 1 state parcel as high priority but indicated considerable interest in 7 additional parcels.

It should be recognized that the state list did not include those valuable state habitat lands that had been designated for long-term retention by the Alaska legislature. For instance the USF&WS has repeatedly expressed its interest in owning the Izembek Lagoon tidelands accorded state refuge status by the legislature in 1972. These and other state lands in critical habitat areas and game sanctuaries were not included in the ADF&G/ADNR proposal because it would take legislative action to make them available for exchange consideration. While the habitat values of these lands would most likely be preserved and protected as well in federal ownership as under current state management ADF&G determined that raiding the state's designated habitat protection system in order to acquire subsurface estate speculatively valuable for oil and gas would create its own set of perception problems.

The USF&WS response offers the state a clear opportunity to proceed to the next stage of an exchange. Land exchange negotiations with the USF&WS should proceed in order to preserve the state's standing in any exchange activities. At the very least efforts to advance the Tetlin townships would keep the state in the midst of the land exchange action. As could be expected the USF&WS did not recognize advantage in acquiring lands that are sought by the National Park Service. These parcels were included on the list to allow the federal government to realize which benefits from possible exchanges in addition to acquiring refuge lands. A second prong of the state initiative should include elevation of the USF&WS lack of interest in these parcels to the attention of Interior department policymakers.

The remainder of the assignment contained in the February 17 memorandum required monitoring of USF&WS exchange activities with parties other than the State of Alaska. USF&WS efforts in this regard began in 1984 when Koniag

broached the subject with the Service and have been conducted on a variety of fronts since that time. DNR met with the USF&WS to find out what was happening in these exchange negotiations. The dual purpose of that meeting was to reiterate the State's position that any land tenure changes on the Arctic coastal plain should involve significant state participation and to present the aforementioned inventory of state land which may be available for exchange consideration should Congress determine that oil and gas development will be permitted in ANWR.

USF&WS's Robert Gilmore conducted the briefing, seemed quite familiar with the State's general interest, and was intrigued by the list of possible exchange land candidates offered by the State. He explained that the Service, through its refuge planning process, had identified numerous parcels of land within and adjacent to refuge system units in Alaska that had significant wildlife values but were not in federal ownership. Gilmore also explained that Koniag made the initial contact with his predecessor Keith Schreiner a number of years earlier. Possibilities for an exchange had been discussed off and on since that time. Map review exercises had been carried out with Koniag, Bristol Bay, Doyon and Arctic Slope regional corporations. The focus was initially on regional corporations because of ANCSA subsurface ownership provisions, including 7(i), and the plans of the Service to only offer Arctic National Wildlife Refuge (ANWR) subsurface estate for exchange purposes.

USF&WS recognized early that village corporations owned many of the Service's land acquisition candidates. Unfortunately region-village institutional arrangements and operating relationships didn't always allow the region to offer swaps of village surface estate. At first the Washington Office of Interior prohibited contact with village corporations. This ban has since been lifted and Gilmore has conducted a series of village contacts including meetings in King Salmon and Ft. Yukon.

Another problem facing USF&WS was the absence of a habitat rating methodology to allow the Service to prioritize among parcels identified by regions in the map review portion of the discussion. The Service has now developed a ranking system which permits them to assess their interest in acquiring particular units of candidate lands. USF&WS utilized the methodology to review the State's candidate acreage. Gilmore believes that the methodology materially advanced the state of the art and usefully substitutes for the regularly confusing array of superlatives normally used to characterize habitat values.

The next dilemma facing the Service was the matter of appraisal. Borrowing from refuges across the country Gilmore assembled a team of Service appraisers and began the task of determining values for about 1 million acres of surface estate held by the subject corporations. Familiarity with Service appraisal standards was not the problem for this task force. Applying the traditional methodology to the immense acreages, remote locations, and other unique Alaskan conditions required special training and adaptations however. The standard discount for large parcels had to be modified for this exercise because it reduced the value of the native land to unacceptable values. The absence of meaningful comparative sales also posed difficulties. Calculation of the discount appropriate for Section 22(g) of ANCSA was done administratively because it also exceeded the experience of the appraisal team. However the initial appraisal work is not essentially complete. The appraisals have been approved by the Washington office and Gilmore has a ball park estimate of the values involved.

Calculating the 22(g) factor was just one of a host of nontraditional aspects of the appraisal assignment. The Service proceeded along the lines of the zone concept developed in the Kodiak Refuge Plan to determine a standard deduction value for the fact that much of the native land was required to be managed according to the adopted refuge plan. This severely restricted the possible uses of the land and lowered its value considerably. Coupled with the fact the acreage was remote and not of great worth in traditional real estate terms, the appraised value of native land was quite low even after Gilmore's efforts to modify the traditional Service methodology.

Low value was not the problem on the other end of the exchange package. Rumors described BLM's appraisal of the subsurface value of the Arctic Coastal Plain as quite high at least in preliminary review stages of the process. When the oil and gas industry points to an area and states that it is the best prospect in the country it is easy to imagine how the folks with access to geological and seismic information from that area might be enthusiastic. But the objective approach to these possibilities places them in terms of probability and must provide for a discount factor. When BLM's analysis is unveiled it can be reviewed and contrasted with the similar study performed by the State of Alaska. As the state has experienced in numerous past exchange situations the F&WS recognized that subsurface valuation was not an exact science. BLM was hesitant to place hard and fast values on the individual lease tracts in their analysis. But without comparative values it is difficult to fashion any kind of a trade package. So Gilmore has pressed BLM to offer values that can be utilized in the exchange process. Additionally the Service has had to design a failsafe process so that participating native corporations aren't faced with the risk of losing their land base and finding no oil and gas resources. A mechanism which would guarantee a soft landing in case of exploration failures has been fashioned. None-the-less the exchange process has bogged down because Koniag is unwilling to accept the values that have been assigned to their lands by the USF&WS. Koniag has retained former USF&WS Alaska Director Bob Putz and others to press their case in Washington D.C. They argue that in addition to the real estate value the lands must receive credit for their public interest values. This effort to attach a "blue sky" increment to the land value may be successful because its permitted by law and Interior's presumed interest in offering ANWR subsurface for development. Most likely the actual exchange will not occur until Congress takes action allowing subsurface development.

Koniag's situation is reported here because their train is furthest down the track. Other regions maintain interest in ANWR subsurface and access to current status on all fronts is not available. Most recently CIRI met with Interior officials in Washington and received encouragement to fashion a joint state - ANCSA corporation package for Interior consideration. Most observers agree that such a configuration would be the most saleable package to the Department. CIRI envisions a swap that would give them ANWR subsurface while the USF&WS would acquire state acreage and the state would conclude its Kachemak State park acquisition from Seldovia and CIRI. Alternatively teamed with CIRI or some other ANCSA corporation the state could be more likely to acquire ANWR subsurface. All of these possibilities should be measured against Alaska's current 90% interest in ANWR's mineral resources and its steadfast assertion that it should be considered first in any further decision-making process.

In summary, ~~ADF&G &~~ DNR advanced candidate exchange lands to USF&WS. The Service's positive response calls for further action. We continue to monitor exchange ~~efforts~~ underway and find it would be easier to accomplish these tasks from the midst of the maelstrom than from the edges.

original to Tom — Reply To Gus

United States Department of the Interior

FISH AND WILDLIFE SERVICE
1011 E. TUDOR RD.
ANCHORAGE, ALASKA 99503

IN REPLY REFER TO:
RE/4377e

MAR 12 1986

Tom Hawkins, Director
Division of Land and Water Management
Alaska Department of Natural Resources
555 Cordova Street
Pouch 7-005
Anchorage, Alaska 99510-7005

Dear Mr. Hawkins:

Thank you very much for your 5 February 1986 letter regarding State participation in land exchanges involving Arctic National Wildlife Refuge (NWR).

We reviewed the pool of 17 parcels of State land made available for preliminary exchange consideration and listed the areas in order of acquisition priority. Area 15, "Tetlin NWR Consolidation," was identified as a high priority for acquisition by the Fish and Wildlife Service (FWS). This area contains high density waterfowl nesting habitat and is entirely within the boundary of Tetlin NWR. We believe acquisition of the area would enhance management of the refuge as a whole and would be in the best interest of the State and Federal governments. We would also like to note that other State-owned lands within Tetlin NWR and elsewhere are a higher priority for acquisition than those presently offered. We would be interested in negotiating an exchange which would include these lands as well.

While it is true that all of the areas listed have resource values which make them suitable for refuge status, most of the areas have not been identified as a priority for acquisition by the FWS. Nearly all of the parcels listed are outside the boundaries of Alaska NWR's, some being within the boundary of National Parks. Acquisition of these areas would present additional land administration and management problems. In addition, many of the areas are most important for resident game, a State responsibility, or those marine mammals which are a National Marine Fisheries Service responsibility. Although the FWS is not insensitive to the need for enhancing management of habitats important to these species, it is simply not an FWS priority to actively pursue acquisition of such habitats. In areas recommended for additional protection, such as those on the Bristol Bay coastal plain of the Alaska Peninsula, we believe that in most cases adequate protection could be provided through cooperative management agreements.

If you would like to meet and further discuss this matter please feel free to call me.

Sincerely,

Robert E. Gilmore
Regional Director

MAR
DLWM Directors Office

Attachments

3-17

Attachment 1

3 Mar 86
1/1

Ranked List of State Lands Available for Exchange Consideration With the U. S. Fish and Wildlife Service*

HIGH PRIORITY	PRINCIPAL RESOURCE VALUE
Area 15 Tetlin NWR Consolidation (Tetlin NWR)	Waterfowl nesting.
MEDIUM PRIORITY	
Area 4 Marmot Island (Alaska Maritime NWR)	Marine mammals, seabirds.
Area 7 Tugidak Island (Alaska Maritime NWR)	Harbor seal rookery.
Area 10 Alaska Peninsula (portion within Alaska Peninsula)	Waterfowl nesting/staging.
Area 11 Black Hills	Resident game, waterfowl.
Area 8 Kisaralik River	Salmon, resident game.
Area 1 Trumpeter Swan Nesting Area	Waterfowl.
Area 2 Redoubt Bay	White-fronted goose nesting.
LOW PRIORITY	
Area 6 Shearwater Peninsula	Resident game, seabirds, marine mammals.
Area 9 Nushagak/Iliamna Area	Salmon spawning, resident game.
Area 5 Raspberry Island	Resident game.
Area 12 Kamishak	Resident game.
Area 13 Kokrine Hills/Melozitna River	Resident game.
Area 14 Lower John/Alatna Rivers	Resident game, salmon spawning.
Area 16 Wolf Townships	Resident game. (NPS inholding)
Area 17 Reed River	Resident game. (NPS inholding)
Area 3 McCarthy	Resident game. (NPS inholding)

* List of parcels was developed by Alaska Dept. or Natural Resources and submitted to Fish and Wildlife Service on February 5, 1986.

Attachment 2

3 Mar 86
1/3

Rationale for Ranking of State Lands Available for Exchange Consideration by the U. S. Fish and Wildlife Service (letter from Alaska Dept. of Natural Resources, 5 February 1986).

HIGH PRIORITY

Area 15 - Tetlin NWR Consolidation:

This area is a priority because it would eliminate a large State selection on Tetlin NWR that has high waterfowl nesting densities. Major species are northern pintail, scaup and green-winged teal. Note: other State owned lands within Tetlin are a higher priority for acquisition but were not offered for exchange. Some of the land described on the maps supplied by the State appears to be Native owned.

MEDIUM PRIORITY

Area 4 - Marmot Island:

Identified by refuge staff as a high priority for acquisition. The eastern shore of the island contains a haulout site for about 8,000 Steller's sea lions. There are also several small seabird colonies present. Feral pigs were recently introduced and have begun to impact island vegetation. Management of Steller's sea lions is a National Marine Fisheries Service responsibility.

Area 7 - Tugidak Island:

Identified by refuge staff as a high priority for acquisition. The harbor seal rookery located here is one of the largest in the world. As many as 20,000 animals have been present at one time. Management of harbor seals is a National Marine Fisheries Service responsibility.

Area 10 - Alaska Peninsula:

None of the area described on the maps submitted by the Department of Natural Resources includes land within the boundary of Alaska Peninsula or Becharof NWR's. The area is very large, about 2.9 million acres, and contains a great deal of high quality nesting habitat for tundra swans and sandhill cranes and low density nesting habitat for several duck species. The area includes waterfowl staging habitat near State Critical Habitat Areas (SCHA) that Realty Division recommended for inclusion in expanded SCHA's and not as "new" refuge. Comprehensive Conservation Plans for the area recommend additional protection for large pieces of this area but do not necessarily recommend federal acquisition.

Area 11 - Black Hills:

Most of this area has been recommended for additional protection by Comprehensive Conservation Planning. The Bristol Bay Plan discusses the possibility of a cooperative management agreement or exchange of the area to FWS. None of the area is within Izembek NWR or Alaska Peninsula NWR but is contiguous to both. Major resource values include: calving area for the southern Alaska Peninsula caribou herd and waterfowl and shorebird nesting habitat throughout the Caribou-Sapsuk River lowlands. Migratory bird values are believed to be high based on preliminary surveys but very little work has been done in the area.

LOW PRIORITY

Area 1 - Trumpeter Swan Nesting Area:

One of the best waterfowl nesting areas in the State that was not included in the refuge system. Not in or near an existing NWR. About 25% of the Pacific Flyway trumpeter swans recorded on breeding ground population counts use the Gulkana Basin for nesting.

Area 2 - Redoubt Bay:

This area is located on the west side of Cook Inlet and is not in or near an existing refuge. The area contains most of the (Tule) greater white-fronted goose nesting and fall staging habitat. Resident game values are also high.

Area 8 - Kisaralik River:

This area includes the uppermost portion of the Kisaralik watershed. The parcel is outside the boundary of Yukon Delta NWR. Raptor surveys conducted in 1984 documented very high nesting density and diversity along the Kisaralik downstream from this area. Resident game such as beaver, moose and caribou is the principle wildlife resource value. The river is used by anglers and has high recreational potential.

Area 6 - Shearwater Peninsula:

Near Kodiak NWR this area is now managed as a "refuge" by the State as part of the Terror Lake Agreement (mitigation). The area contains small numbers of nesting seabirds and a few small, marine mammal haulout sites. Some of the coastal streams are brown bear feeding areas.

Area 9 - Nushagak/Iliamna Area:

A very large parcel of almost 7 million acres. Not in or near an NWR. Important area for resident game. The area also contains salmon spawning habitat for the Bristol Bay run and a large and growing sport fishery. Scenic values are very high and the area is adjacent to Lake Clark National Park and Preserve.

Area 5 - Raspberry Island:

Not within a refuge. The State owns about half of the island, the other half being owned by a Native Corporation. The island contains the only elk herd in the Kodiak area that is on public land. Black-tailed deer and brown bear are also present.

Area 12 - Kamishak:

Not within a refuge. Located between McNeil River State Game Area and Katmai National Park and Preserve. Contains several small seabird colonies and some moose habitat. Important area for resident game especially brown bears which use the adjacent McNeil River area for feeding.

Area 13 - Kokrine Hills/Melozitna River:

Not within a refuge. The area is almost all upland and is primarily habitat for resident game species such as moose, brown bear and caribou.

Area 14 - Lower John/Alatna River:

Not within a refuge. The area is primarily upland and is habitat for resident game. Also contains some spawning habitat for king and chum salmon.

Area 16 - Wolf Townships:

Bordered on three sides by Denali National Park and Preserve. Habitat for resident game including wolves, sheep, moose and caribou. National Park Service is interested in acquiring this parcel.

Area 17 - Reed River:

Bordered on three sides by Gates of the Arctic National Park and Preserve. Important habitat for resident game. Used by the western Arctic caribou herd.

Area 3 - McCarthy:

An inholding in Wrangell St. Elias National Park and Preserve. Alleged by the State to be threatened by development.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

555 CORDOVA STREET
POUCH 7-005
ANCHORAGE, ALASKA 99510-7005
PHONE: (907) 276-2653

February 5, 1986

Robert E. Gilmore, Regional Director
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503

Dear Mr. Gilmore:

I appreciate the opportunity to meet with you to discuss state involvement in any land exchange involving the Arctic National Wildlife Refuge (ANWR). My purpose in arranging this meeting is twofold. Consistent with the governor's recent letter to you on this subject, I would like to learn more about the details of your on-going land exchange negotiations with several ANCSA regional corporations involving the coastal plain of ANWR. Secondly, I have consulted with state agencies to assemble a large pool of state land available for preliminary exchange consideration by your office (attachment).

As you may be aware, the state owns a substantial amount of habitat land surrounded by, or immediately adjacent to, components of the national refuge system (and other conservation system units). We have examined these areas and have identified almost 12 million acres of state land which we believe possess attributes worthy of exchange consideration by your office. You may conclude that acquisition and management of these lands by the Fish and Wildlife Service would further federal interests as well as serve to reduce unwieldy state/federal land ownership patterns.

The pool of state land presented for exchange consideration includes a wide variety of fish and wildlife habitat types in many geographic locations. Specifically included are such significant areas as the Copper River Basin trumpeter swan nesting areas, key brown bear and seabird habitat on the Shearwater Peninsula of Kodiak Island, calving grounds for the lower Alaska Peninsula caribou herd in the Black Hills, the Kisaralik River region between Togiak and Yukon Delta NWR's, state inholdings within the Tetlin NWR and Redoubt Bay on the west side of Cook Inlet (nesting and staging area for tule geese and trumpeter swans). Both the existing Bristol Bay Cooperative Management Plan and several of your draft refuge plans already recommend that much of this state land be acquired by the FWS through exchange.

State land exchanges must occur in accord with AS 38.50 and 11 AAC 67. These applicable statute and regulatory authorities provide authorization for the exchange of state land or interests, provided the exchange serves the public interest and there are thorough opportunities for public and agency involvement in the process. Specifically, the department must provide widespread public notice of a proposed exchange, hold public hearings, provide for public comment and prepare and distribute a report on the proposed exchange. In addition, if the proposed exchange is of unequal value, or includes state land having an appraised or estimated value greater than $5,000,000, legislative review is required. These requirements are specifically designed to safeguard the public interest.

I urge your careful review of this state pool of possible exchange land. The state is sincerely interested in participating in any discussion of land pattern adjustments which would benefit state and national interests. I await your timely response and remain prepared to meet or otherwise discuss this matter in greater detail. Please give me a call at 762-4355 should you have any questions.

Sincerely,

Tom Hawkins

Tom Hawkins
Director

Attachment

Attachment

State Lands Available for Exchange Consideration With USFWS
February 5, 1986

SOUTHCENTRAL ALASKA

Area 1 - Trumpeter Swan Nesting Area: In the Gulkana Basin approximately 500,000 acres of state land are available, including important trumpeter swan nesting and rearing areas. The Gulkana Unit has the highest density of nesting swans in the state and contains 27 percent of the world population.

Area 2 - Redoubt Bay: This area constitutes approximately 176,000 acres of state land on the west side of Cook Inlet. This area is used extensively by whitefronted geese (tule) for nesting and staging. The tule goose was listed as a subspecies of concern by the International Council for Bird Preservation. They also recommended to the U.S. Fish and Wildlife Service that the tule goose be listed as an endangered species. The area is also important for other waterfowl nesting, feeding and migration, moose calving, spring and fall bear feeding, and salmon spawning and rearing.

Area 3 - McCarthy: Surrounded by the Wrangell St. Elias National Park and Preserve are approximately 18,000 acres of state land in the heart of the park. These lands have development potential which could be precluded through federal acquisition.

SOUTHWEST ALASKA

KODIAK ARCHEPELAGO

Area 4 - Marmot Island: Marmot Island is located east of Afognak Island and is surrounded by Maritime National Wildlife Refuge (NWR). The island contains important Steller sea lion rookeries. The state owns the entire island which contains approximately 12,000 acres. The eastern shore of Marmot Island contains one of the largest Steller sea lion rookeries in Alaska and is critical habitat for this species. A 1982 survey reported approximately 8,000 individuals utilizing this area. Marmot Island also supports four seabird colonies totalling about 3,500 breeding birds. The largest percentage of these birds are black-legged kittiwakes.

Area 5 - Raspberry Island: Raspberry Island is located across Onion Bay from Kodiak NWR. The western half, or approximately 26,000 acres, of the island is under state ownership. Raspberry Island contains the only free roaming elk herd remaining on public land in the Kodiak Archepelago and the State of Alaska The valley between Driver Bay and Onion Bay is critical habitat for elk and is used year round. Raspberry Island also supports populations of Sitka black-tailed deer and brown bear. The abundant wet meadows in Driver Bay contain sedges and grasses that provide critical brown bear spring feeding areas.

Area 6 - Shearwater Peninsula: The State of Alaska owns approximately 123,000 acres on the Shearwater Peninsula located adjacent to the eastern border of the Kodiak NWR. This portion of Kodiak Island was originally

contained within the Kodiak NWR. The Shearwater Peninsula provides excellent brown bear habitat and contains key spring feeding areas and numerous streams that are heavily fished by brown bears. Several coastal areas are used as haul-out sites by harbor seals and Gull Point is a documented northern sea lion haulout area. The Peninsula also contains three large seabird colonies consisting of approximately 4,000 birds, comprised primarily of red-faced cormorants, black-legged kittiwakes, and tufted puffins.

Area 7 - Tugidak Island: Tugidak Island is located about 15 miles south of Kodiak NWR and is surrounded by the Maritime NWR. The state has full ownership of this island, which contains approximately 55,000 acres. It is extremely valuable habitat for harbor seals and a variety of birds including waterfowl, raptors, and shorebirds. Tugidak Island is the most important single breeding ground for harbor seals in Alaska. It has the largest known population of harbor seals in the world, estimated to be between 15,000 to 20,000 animals with concentrations of hauled-out seals reaching 14,000. In past years, this population has produced in excess of 5,500 pups annually.

BRISTOL BAY REGION

Area 8 - Kisaralik River: This area consists of approximately 278,600 acres immediately adjacent to the Yukon Delta and Togiak National Wildlife Refuges. The upper reaches of the Kisaralik River system, which is one of the major salmon producing rivers in the Kuskokwim region, flow through this area. Brown bear, caribou, and moose are also found throughout the Kisaralik River vicinity. This river has high recreational potential and, in 1984, the National Park Service was studying the Kisaralik River for possible inclusion in the National Wild and Scenic River System.

Area 9 - Nushagak/Iliamna Area: Approximately 6,996,400 acres are included in this area. A substantial proportion of this acreage is immediately adjacent to the Lake Clark and Katmai National Parks and Preserves. Additionally, about 13,844 acres are surrounded by the Lake Clark National Park and Preserve. This area encompasses highly valuable habitat for a variety of species such as salmon, caribou, moose, and brown bear. For example, a large portion of the salmon resources harvested by commercial, recreational, and subsistence users in the Bristol Bay region originate in the Iliamna Lake and drainage system. Other rivers, such as the Nushagak River, also support large salmon runs utilized intensively by recreationists. Large game species are abundant in the area, and some of the acreage encompasses habitat critical to these speciesm including caribou calving grounds, moose calving and winter concentration areas, and brown bear concentrations along salmon streams.

Area 10 - Alaska Peninsula: This area is comprised of several large tracts of state land between the Naknek River and Hereendeen Bay. This area contains approximately 2,869,800 acres, which are contiguous to the Becharof National Wildlife Refuge, the Alaska Peninsula Wildlife Refuge, Katmai National Park, and Aniakchak National Monument and encompasses much of the productive coastal plain of the Alaska Peninsula. Brown bear populations in this area are among the largest in the state, and the coastal plain provides critical fall and spring feeding areas for this species. This area also contains portions of several of the most important

sport fishing streams. The area contains extensive wetlands and some very important waterfowl habitat. The state lands adjacent to the Cinder River state Critical Habitat Area have been recently identified by the U.S. Fish and Wildlife Service (USFWS) as providing essential habitat for cackling Canada geese. The area also contains substantial state inholdings within the Alaska Peninsula Wildlife Refuge at Mother Goose Lake, as well as other locations on the peninsula.

Area 11 - Black Hills: This area consists of approximately 460,800 acres contiguous to the Izembek National Wildlife Refuge. The Black Hills contain the major calving area for the lower Alaska Peninsula caribou herd, as well as the drainages of several important salmon streams including the Caribou and Sapsuch rivers. This area contains extensive wetlands, and is adjacent to the Port Moller State Critical Habitat Area, which contains critical habitat for many species of waterfowl. The Black Hills area also supports a large brown bear population. The Bristol Bay Area Plan recommends this area for consideration for an exchange or cooperative agreement with the USFWS.

Area 12 - Kamishak: This area consists of approximately 76,000 acres of state land between the McNeil River State Game Sanctuary and Katmai National Park and Preserve. The area includes important brown bear, moose and seabird habitat, including much of the range used by brown bears frequenting the adjacent McNeil River area.

NORTHERN ALASKA

Area 13 - Kokrine Hills/Melozitna River: This land, composed mostly of patented state lands with a surrounding ring of selected lands, lies north of the Yukon River between the Nowitna NWR (to the south) and the Koyukuk NWR (to the west). The "Melozi" is a valuable wildlife production area, supporting good populations of moose and grizzlies. Black bears occur on the lower river near the canyon. A small population of caribou use the Kokrines Hills. The river is an important summer chum spawning stream, and both grayling and Dolly Varden occur commonly in the lower river. At least two peregrine falcon eyrie sites occur along the river (active in 1980). The upper Melozi meanders through substantial wetlands, which are used by waterfowl and furbearers.

Area 14 - Lower John/Alatna Rivers: This mixed block of patented and selected state lands lies between the Kanuti NWR (to the south) and Gates of the Arctic National Park (to the north and west). Wildlife values include moose, caribou, and Dall sheep. Lake trout is an important fish species in lakes and both king and chum salmon use the Alatna River. Chum salmon also spawn in the lower John River. This would expand the values of Kanuti NWR substantially.

Area 15 - Tetlin NWR Consolidation: Several townships of state patented or selected lands lie within the Tetlin NWR south of the Alaska Highway. Consolidating these areas into the refuge would eliminate unwieldy land ownership patterns.

Area 16 - Wolf Townships: This area, composed of approximately 62,000 acres, is surrounded on three sides by Denali National Park and Preserve. It is an important wintering area for moose and would provide additional

habitat protection for caribou, sheep and wolves.

Area 17 - Reed River: Approximately 110,000 acres of state land in this area is surrounded on three sides by Gates of the Arctic National Park and Preserve. This area contains bear and moose habitat and is used by the Western Arctic caribou herd.

BILL SHEFFIELD
GOVERNOR

State of Alaska
OFFICE OF THE GOVERNOR
WASHINGTON D.C.

December 3, 1985

MEMORANDUM

TO: THE HONORABLE TED STEVENS, U.S. Senate
THE HONORABLE FRANK MURKOWSKI, U.S. Senate
THE HONORABLE DON YOUNG, U.S. House of Reps.

FROM: JOHN W. KATZ, Director of State/Federal Relations and Special Counsel to the Governor

SUBJECT: ANWR LAND EXCHANGE

As you know, the Interior Department has commenced discussions with various Native corporations about the possibility of exchanging privately owned lands for federal acreage located in the Arctic National Wildlife Refuge (ANWR). We are advised that these discussions are at an early stage. Accordingly, the State has neither been consulted by DOI officials, nor have we taken a position regarding the wisdom of such an exchange.

Nevertheless, the State does have certain interests and concerns which hopefully will be addressed as negotiations continue. Some of these concerns are expressed in the attached correspondence from Governor Sheffield to Bob Gilmore of the U.S. Fish and Wildlife Service.

In essence, we have three specific interests at this point in time. First, as a sovereign State, Alaska should be fully consulted and meaningfully involved in matters, such as ANWR, which are integrally related to important State land use and resource concerns. On the basis of Mr. Gilmore's letter to the Governor and of my conversations with Bill Horn, I believe that such State participation will occur.

Second, the State is concerned about possible adverse impacts on the 90-10 revenue sharing formula which applies to the allocation of federal mineral revenues derived from oil and gas development within wildlife refuges in Alaska. Under this formula, the State receives 90 percent of the

federal share of bonuses, rentals, and royalties attributable to such development. The accompanying memorandum from Tom Koester of the Attorney General's office details the legal and policy reasons which support continuation of the current formula.

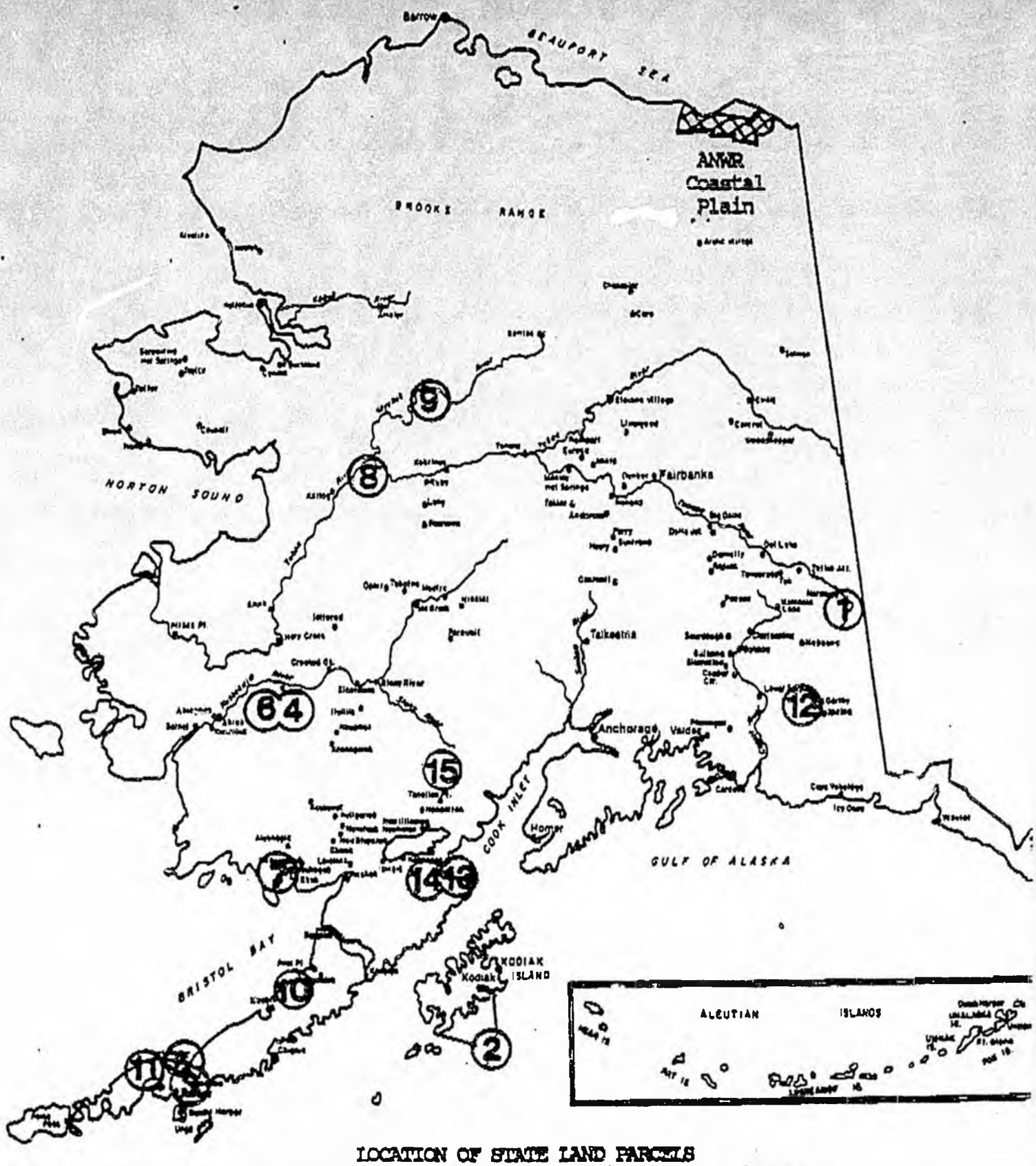
Third, as the owner of certain lands located within or adjacent to federal conservation system units, the State may be interested in exchanging some of these lands for federal acreage located on the coastal plain of ANWR. The resource related reasons for discussions regarding such an exchange are similar to those which pertain to certain Native holdings.

I will be meeting with Bill Horn later this week to discuss these matters in greater detail. However, knowing of your longstanding interest in the management and disposition of ANWR lands, I wanted to apprise you of the State's current thinking at this early juncture.

We look forward to working with you and your staffs in the development of a land ownership and management regime for ANWR which adequately balances all of the various considerations. Please let me know if you have any questions or comments concerning the subject matter of this memorandum.

Attachment

cc: Bill Phillips
Greg Chappados
Dennis Fradley
John Moseman
C.J. Zane
Rick Agnew



LOCATION OF STATE LAND PARCELS

Subject to Exchange for ANWR Oil and Gas Rights

1-4 State Land Within NWR's
5-9 State Selections Within NWR's
10-11 State Land Adjacent to NWR's
12-13 State Land Within National Parks
14-15 State Land Adjacent to National Parks

STATE LAND
PROPOSED FOR CONVEYANCE TO THE U.S. DEPT. OF INTERIOR
IN EXCHANGE FOR OIL & GAS RIGHTS
IN THE ARCTIC NATIONAL WILDLIFE REFUGE (ANWR) COASTAL PLAIN

STATE OWNED LAND WITHIN NATIONAL WILDLIFE REFUGES

1. Tetlin NWR — 45,000 acres

   12-13N 20-21E CRM

2. Alaska Maritime NWR — 300 acres

   32S 21W SM (Long Island)
   40S 31W SM (Sundstrom Island)

3. Alaska Peninsula NWR — 45,000 acres

   51S 72-75W SM

4. Yukon Delta NWR — 4,800 acres

   14N 55W SM

VALID STATE SELECTIONS WITHIN NATIONAL WILDLIFE REFUGES

5. Alaska Peninsula NWR — 31,000 acres

   50S 73-74W SM

6. Yukon Delta NWR — 55,000 acres

   11N 65W SM
   15N 55,56,63W SM
   16N 56,61W SM
   17N 56W SM
   22N 59W SM

7. Togiak NWR — 3,300 acres

   14S 56W SM

8. Innoko NWR (north unit) — 57,000 acres

   7S 8E KRM
   8S 5,7,9E KRM
   9S 8E KRM
   11S 2E KRM

9. Koyukuk NWR — 19,000 acres

   6N 13E KRM

STATE OWNED LAND ADJACENT TO NATIONAL WILDLIFE REFUGES

10. Mother Goose Lake/ Cinder River Unit (Alaska Peninsula NWR) — 535,000 acres

32S 51-54W SM
33S 52-56W SM
34S 53-57W SM
35S 51-58W SM
36S 51,55-58W SM
37S 57-58W SM

11. Black Hills Unit (Alaska Peninsula NWR) — 380,000 acres

49S 80-81W SM
50S 79-82W SM
51S 78-82W SM
52S 79-85W SM
53S 85W SM
54S 85W SM

STATE OWNED LAND WITHIN NATIONAL PARKS

12. Wrangell-St. Elias NP&P — 18,000 acres

5S 11-13E CRM
6S 11-15E CRM

13. Katmai NP&P — 49,000 acres

13S 26-29W SM

STATE OWNED LAND ADJACENT TO NATIONAL PARKS

14. Kamishak Bay Unit (Katmai NP&P) — 27,000 acres

13S 29-30W SM
14S 32W SM

15. Bonanza Hills Unit (Lake Clark NP&P) — 218,000 acres

5N 30-32W SM
6N 30-32W SM
7N 29-31W SM
8N 30W SM
9N 30-31W SM

Mobil Oil Corp. opposes proposed ANWR land swa

THE ASSOCIATED PRESS

ANCHORAGE – Proposed land swaps that would give Native corporations lucrative oil and gas rights in the Arctic National Wildlife Refuge are illegal under federal land and mineral leasing laws, according to an opinion prepared for a major oil company opposed to the trades.

Mobil Oil Corp., the first major oil producer to oppose publicly the trades, believes the controversial land exchange proposals are hurting the effort to convince Congress to allow oil and gas development in the 1.5-million-acre coastal plain of the refuge, a Mobil spokesman said Friday.

The Interior Department wants to swap about 166,000 acres of potentially oil-rich ANWR land for surface rights to 891,000 acres of Native-held land in wildlife refuges throughout Alaska. The government has said it wants the Natives' refuge in-holdings to protect the land and wildlife from development.

Eighteen Native corporations have teamed with oil company partners and selected ANWR tracts in a bidding process that critics say was improper and aimed simply at pressuring Congress into opening the coastal plain to development. Oil companies would be able to explore for oil years sooner by avoiding a lengthy federal leasing process if the tracts are privately held.

Mobil is not one of the eight companies involved in the land trades. Other oil company officials suggested Friday that Mobil only is trying to protect its own interests by opposing the trades.

Mike Kimmitt, a Dallas-based spokesman for Mobil, said the company opposes the land trades because they raise "competitive and legal" questions and detract from the central issue of opening the refuge to development.

David Heatwole of ARCO Alaska Inc., whose company is teamed with two Native corporations in the trades, said ARCO and its lawyers have concluded the proposed swaps are "perfectly legal."

State officials also are fighting the proposed trades, for many of the same reasons pointed out in Mobil's legal opinion. And environmental groups have sued to stop the swaps, claiming they violate federal environmental policy laws.

Kimmitt said Mobil commissioned the legal opinion from a Washington, D.C.-based law firm.

The 31-page opinion, issued Nov. 24, blasts the Interior Department for the way it has handled the proposed trades, saying the government made serious mistakes in the way it arrived at dollar values for ANWR oil and gas rights as well as dollar values for the Native-held lands.

Undervaluing the oil and gas rights, and waiving a standard royalty on production from federal lands, could result in significant losses to the federal treasury, the opinion said.

Moreover, the trades would sidestep a competitive bidding process that has been "the cornerstone" of the government's leasing policy for 70 years. Oil companies that did not participate in the land swaps would be at a disadvantage in any future lease sales because they won't have the benefit of drilling and exploratory information gained by the companies that did join with the Native corporations, the opinion said.

According to the opinion, the Native selections were made after more than two years of secret negotiations between the Natives and Interior. In July, Native corporation officials held closed-door meetings with Interior in a hotel in Arlington, Va., to choose specific tracts.

The Natives submitted sealed bids for their top choices. If no other corporation had picked the same tract, the company was awarded the tract at the minimum value established by Interior, the opinion said.

If more than one company wanted the same acreage, a negotiation took place in which "the participants were given an opportunity to leave the room and negotiate among themselves to try to allocate tracts so they could still be awarded at the minimum price," the opinion said.

The corporations were allowed to pay each other cash to convince competitors to relinquish tracts. But if they couldn't work it out after 90 minutes, Interior could call for a competitive bid or a random drawing to allocate the tract, the opinion said.

The corporations were able to seek advice from their oil company partners via telephone during process, the opinion said.

The tract selection process essentially competitive bidding and ensured the corpo the minimum price for each tract, the opinio

Initially, the federal government was to r alty of 1.75 percent on the coastal plain tr royalty apparently was eliminated, the opini ing that federal mineral leasing law calls for 12.5 percent royalty on federal lands.

The opinion said Interior is proposing the the Alaska National Interest Lands Conserva that law requires land swaps to be of equal v in the public interest.

But the way Interior valued the ANWR held acreage, combined with the way the tra was carried out, was simply a contrived proc the exchanges appear to be of equal value or i interest, the opinion said.

"We expect that when the record of the e reviewed, it will become apparent that the pu exchanges is to remove lands from ANWR s can be open to immediate development by p ties without waiting for Interior to establish agement and leasing regime for all ANWR," said.

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HJR9 OPPOSES NATIVE LAND TRADES FOR LANDS IN ANWR, CHIEFLY ON THE BASIS THAT THE STATE NEEDS THE 90 PERCENT OF FEDERAL ROYALTIES THAT IT WOULD GET UNDER PRESENT LAW IF THE U.S. GOVERNMENT OWNS AND LEASES THE LAND. THIS REASONING IS MISGUIDED FOR FIVE REASONS.

FIRST, 90 PERCENT OF NOTHING IS STILL NOTHING. NATIVE INVOLVEMENT AND SUPPORT WILL BE ESSENTIAL IF CONGRESS IS TO OPEN ANWR AT ALL. ALASKA IS SEEN OUSIDE AS HAVING HAD ITS FLING, AND HOW MANY NEW VOTES CAN THE OIL COMPANIES DELIVER? CONGRESSIONAL SUPPORT IN D.C. TOWARD NATIVE AMERIC[illegible] AND WILDLIFE REFUGE ENHANCEMENT THROUGH NATIVE TRADES WILL OFF-SET THE INCLINATION TO CAST AN EASY PRO-ENVIRONMENTAL VOTE TO KEEP ANWR CLOSED. LANDS GIVEN UP BY THE NATIVES WILL INCLUDE EXTREMELY IMPORTANT INHOLDINGS IN OTHER WILDLIFE REFUGES IN ALASKA, SUCH AS THE MAJOR HABITAT FOR SEVERAL THREATENED SPECIES OF GEESE AND BRANDT. FEDERAL ACQUISITION OF SUCH IN-HOLDINGS (WILL) WIN THE SUPPORT OF SEVEREL WILDLIFE ORGANIZATIONS, AND FORM

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THE BASIS FOR THE KIND OF COMPROMISE WHICH WILL BE NEEDED TO OPEN ANWR. OPPOSING THESE LAND TRADES PLAYS RIGHT INTO THE HANDS OF THOSE WHO WOULD LOCK UP ANWR FOREVER.

SECOND, THE 90 PERCENT FIGURE IS CERTAIN TO BE REEXAMINED IF CONGRESS OPENS ANWR TO OIL AND GAS DEVELOPMENT. NATIVE SUPPORT WILL BE VALUABLE FOR THE STATE IN ITS ATTEMPT TO KEEP ITS SHARE OF FEDERAL ROYALTIES AT A HIGH LEVEL.

THIRD, THE POTENTIAL SIZE AND IMPACT OF THE NATIVE TRADE ON THE ANWR LANDS HAS BEEN GREATLY EXAGGERATED. WHILE THE NATIVES WILL BE TRADING IN VERY SUBSTANTIAL ACREAGE IT WILL BE TRADED ON A VALUE BASIS. THE VALUE OF THE ANWR LANDS FAR EXCEEDS THAT OF THE NATIVE LANDS.

FOURTH, THE TRADES WILL ESTABLISH A STRONG TAX-BASE. STATE PRODUCTION TAXES WILL BE PAID FOR NATIVE ROYALTY PRODUCTION FROM NATIVE LANDS.

FIFTH, NATIVE CORPORATIONS, BEING PRIVATE, CAN IMPOSE AND ENFORCE ALASKA HIRE PROVISIONS IN A WAY THAT THE STATE CAN NEVER HOPE TO MATCH CONSTITUTIONALLY.

FINALLY, THE BOTTOM LINE IS NOT TO LOSE SIGHT OF THE ULTIMATE OBJECTIVE OF OPENING ANWR, CREATING JOBS AND DEVELOPMENT, AND ESTABLISHING A SOUND TAX BASE FOR THE STATE. IT IS AN HISTORICAL AXIOM THAT ALASKA HAS NEVER ACHIEVED MAJOR LAND LEGISLATION IN CONGRESS WHEN THE STATE WAS DIVIDED.

ON BEHALF OF OUR 6300 SHAREHOLDERS AND THE 12 VILLAGE CORPORATIONS IN OUR REGION AND WESTERN ALASKA COMPRISING THE NATIVE LANDS GROUP, COOK

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INLET REGION INC. ASKS FOR YOUR CONSIDERATION IN REMOVING THE PROVISIONS IN HJR9 OPPOSING NATIVE LAND TRADES.

ROY M. HUHNDORF, PRESIDENT
COOK INLET REGION INC.

CC: GOVERNOR STEVE COWPER
COMMISSIONER BRADY
COMMISSIONER KELSO
COMMISSIONER COLLINGSWORTH
COMMISSIONER SMITH
COMMISSIONER MALONE
COMMISSIONER GUITTEREZ
JOHN KATZ, SPECIAL ASSISTANT TO THE GOVERNOR