HJR 74

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHJR 74 (Res)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 4/21/90
Title: Constitutional Amendment: Subsistence Preference
Sponsor: Rep. Jacko
Requestor: _____

Agency Affected: Fish and Game
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No FY 90 impact.

Prepared by: Molly McCammon
Phone: 465-4100
Division: Commissioner's Office
Date: 4/21/90

Approved by Commissioner: Wm W. Wilson
Date: 4/23/90
Agency: Fish and Game

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA

LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3706

HOUSE OF REPRESENTATIVES

DISTRICT 25
AKIACHAK
AKIAK
ATMAUTLUAK
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OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTULIAK
TUNUNAK

AMENDMENT

OFFERED IN THE HOUSE

TO: HJR 74

Page 1, lines 5 - 24:

Delete all material and insert:

"Proposing an amendment to the Constitution of the State of Alaska relating to retention of state management of fish and wildlife and other wild renewable natural resources; and providing for an effective date for the amendment.

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

* Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 19. RETENTION OF NATURAL RESOURCES MANAGEMENT BY THE STATE. Nothing in this constitution prohibits the legislature from enacting laws relating to subsistence uses of fish and wildlife and other wild renewable natural resources that are consistent with valid federal laws in order to retain management authority over those resources by the State.

* Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

* Sec. 3. The amendment proposed by this resolution is effective immediately upon certification of the election returns by the lieutenant governor."

P.O. Box 763 BETHEL, ALASKA 99559 (907) 543-3543

Alaska State Legislature

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

SUBSISTENCE LEGISLATION PACKET:

-HJR 74
-Sectional summary of HJR 74
-HJR 88
-FIscal Note for HJR 88
-Transmittal letter for HJR 88
-Press release for HJR 88
-Administration background paper on HJR 88
-HJR 90
-Sectional summary of HJR 90
-Draft resolution by Representative Goll
-Article VIII of Alaska Constitution
-Alaska National Interest Lands and Conservation ACT (ANILCA)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM Feburary 1, 1990

SUBJECT: Sectional summary of House Joint Resolution 74; Proposing an amendment to the Constitution of the State of Alaska relating to a preference for subsistence use of fish and wildlife and state-owned renewable natural resources

TO: Representative George Jacko

FROM: George Utermohle GU
Legislative Counsel

This memorandum is a sectional summary of HJR 74, requested by Alexis Miller of your staff.

A summary or analysis of a resolution is not an authoritative interpretation of the resolution. The resolution itself is the best statement of its contents.

Section 1 of the resolution amends the Natural Resources Article, Article VIII, of the Constitution of the State of Alaska by adding a new section entitled: Subsistence Use of Renewable Natural Resources.

The first sentence of the amendment authorizes the legislature to provide that subsistence use of fish and wildlife and state-owned renewable natural resources is preferred over other uses.

The second sentence of the amendment provides that the power of the legislature to allocate access to renewable natural resources for subsistence uses on the basis of certain criteria is not constrained by other provisions of the Alaska Constitution. The legislature is specifically authorized to allocate access to renewable natural resources for subsistence uses on the basis of local residency, customary or traditional use of the resources, or dependence on the resources for food and other purposes. The legislature may allocate access to renewable natural resources for subsistence use on the basis of criteria other than those listed,

but an allocation system utilizing other criteria must be consistent with other provisions of the Alaska Constitution.

In regard to renewable natural resources, other than fish and wildlife, the amendment applies only to those resources owned by the state. Unlike fish and wildlife which the state manages wherever they are found in the state (unless preempted by the federal government), the state may not mandate a preference for subsistence use of other renewable natural resources owned by the federal government or by private persons.

Section 2 of the resolution provides that this amendment shall be placed on the ballot at the next general election for acceptance or rejection by the voters of the state.

GU:pl
WKP1/076

Introduced: 3/2/90
Referred: Resources, and Judiciary

go00450h

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 88

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of fish and wildlife by rural residents.

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

* Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE. Nothing in this constitution prohibits the legislature from limiting the taking of fish and wildlife for subsistence uses to rural residents, and from providing for the allocation of that taking among rural residents on the basis of local or community residence, availability of alternative resources, and customary and direct dependence on a fish or wildlife population as the mainstay of livelihood.

* Sec. 2. The intent of the amendment proposed by this resolution is to validate, ratify, and reinstate any provisions of the new statutes and amendments enacted by ch. 52, SLA 1986, and of any regulations adopted under those statutes and amendments, which otherwise might have to be declared invalid under the Alaska Supreme Court's decision in McDowell v. State, 785 P.2d 1 (Alaska 1989), and to explicitly reverse the effect of the McDowell decision as to those provisions and regulations.

* Sec. 3. The amendment proposed by this resolution, and the intent of the amendment as set out in this resolution, shall be placed before the voters of the state as one ballot proposition at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HJR 88 No. 1
PUBLISH DATE: HOUSE 3/2/90

FISCAL NOTE

REQUEST:

Revision Date: 3/2/90
Title: Constitutional Amendment: Subsistence
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Fish and Game
BRU:
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No FY 90 impact.

Prepared by: Molly McCammon
Phone: 465-4100
Division: Commissioner's Office
Date: 3/1/90

Approved by Commissioner: [signature]
Date: 2 28 90
Agency:

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

(4)

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

3 tap 88

March 2, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a joint resolution proposing an amendment to the Alaska Constitution to give rural residents a priority for subsistence uses of fish and wildlife.

In Title VIII of the Alaska National Interest Lands Conservation Act ("ANILCA"), P.L. 96-487, 94 Stat. 2371, 2422 (1980), the United States Congress established a priority for subsistence uses of fish and wildlife by rural residents on federal land, and provided that the priority would be implemented by the secretaries of interior and agriculture unless the state enacted legislation affording the same priority. In ch. 52, SLA 1985, the legislature gave rural residents a priority for subsistence uses of fish and wildlife. The legislature enacted ch. 52, in part, to prevent a federal takeover of fish and wildlife management on federal land, an action with which I wholeheartedly agree.

In McDowell v. State, 785 P.2d 1 (1989), however, the Alaska Supreme Court held that a subsistence priority for rural residents violates the Alaska Constitution. This raises the distinct possibility that the state will lose management of fish and wildlife on federal land and, conceivably, statewide. Such a result is simply unacceptable. It also means that the state might find it difficult, if not impossible, to ensure that rural residents most reliant on fish and wildlife have the necessary opportunities to take those resources when needed.

Section one of the joint resolution would add a new section to art. VIII of the Alaska Constitution to ensure that the constitution does not prohibit (1) a subsistence priority for rural residents, and (2) the allocation of fish and wildlife for subsistence uses on the basis of local or community residence, availability of alternative resources,

(2)

and customary and direct dependence on a fish or game population as a mainstay of livelihood. This would give the legislature clear constitutional authority to enact laws that are consistent with the subsistence provisions of ANILCA.

Section 2 of the joint resolution would validate, ratify, and reinstate those provisions enacted by ch. 52, SLA 1986, held invalid by the Alaska Supreme Court in the McDowell decision. While the court declared that those provisions were inconsistent with the constitution as it read at the time of the decision, they have not been repealed by the legislature nor declared void in a final court judgment. (In any event, while there is a presumption that a constitutional amendment is not retrospective, case law from this and other jurisdictions makes clear that an amendment will have retroactive effect if such an intent is clearly expresse as here. See Mathews v. Quinton, 362 P.2d, 932, 938 -- 939 [Alaska 1961].) By reinstating and ratifying the provisions of the 1986 law, the state would be back in the same position it was in before the McDowell decision, but with the certainty that the provisions of the 1986 law are constitutional.

Section 3 of the joint resolution is, essentially, the standard language directing the lieutenant governor to place the proposed constitutional amendment, including the statement of intended effect, before the voters in a single ballot proposition at the next general election.

I urge your prompt and favorable action on this measure.

Sincerely,

Steve Cowper
Governor

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

STEVE COWPER,
GOVERNOR

FOR INFORMATION CONTACT

DAVID RAMSEUR
PRESS SECRETARY

TERRENCE O'MALLEY
DEPUTY PRESS SECRETARY

(907) 465-3500

FOR IMMEDIATE RELEASE
March 2, 1990
90-40

COWPER INTRODUCES SUBSISTENCE CONSTITUTIONAL AMENDMENT

JUNEAU--Gov. Steve Cowper today is introducing a joint resolution in both houses of the state legislature that would give rural Alaska residents a priority for subsistence uses of fish and wildlife.

The resolution would amend the state constitution to authorize a subsistence priority for rural residents. In determining subsistence eligibility, the amendment would allow the state to consider where a person lives, what the availability of alternative resources is, and whether subsistence is the customary and primary livelihood of people in the area.

"We've considered a whole gamut of options, from completely restructuring our fish and game management system to challenging federal subsistence law in court," Cowper said. "We've concluded that a constitutional amendment is the only practical w[illegible] we can guarantee that Alaskans who depend on a subsistence way of life won't be deprived of access to fish and game."

The resolution must pass by a two-thirds majority vote in both the House and Senate before appearing on November's general election ballot for voter approval.

In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) mandating a priority for subsistence uses of fish and wildlife on federal lands by rural residents. ANILCA also set out that the federal government would take over management of fish and game resources on federal lands in Alaska if the state did not pass similar legislation giving rural residents subsistence priority.

-MORE-

(5)

In 1986, Alaska's legislature passed subsistence legislation giving rural residents preference when resources are scarce, thus preventing a federal takeover of fish and wildlife management on federal lands in Alaska.

Last December, in McDowell v. State, the Alaska Supreme Court declared that law unconstitutional, thereby jeopardizing the state's authority to manage fish and wildlife on federal lands and perhaps throughout the state. That ruling also would make it difficult, if not impossible, for the state to ensure that Alaskans who depend on fish and wildlife the most have the necessary opportunity to take those resources.

"Although we've asked the Supreme Court to reconsider its ruling on subsistence, it's unlikely the court will reverse itself," Cowper said. "The current subsistence situation is unacceptable. Alaska has to be able to manage its own fish and wildlife resources. Otherwise, the federal government would be making decisions about the allocation of our resources and how people here should live their lives. Alaskans know what's best for Alaskans and I believe we need to stand together to protect our citizens' rights through a constitutional amendment."

The joint resolution introduced today would add a new section to Article VIII of the state constitution ensuring that the constitution does not prohibit:

- a subsistence priority for rural residents; and
- the allocation of fish and wildlife for subsistence uses on the basis of local or community residence, availability of alternative resources, and customary and direct dependence on a fish or game population as a mainstay of livelihood.

In addition, the resolution would reinstate the provisions of the 1986 subsistence law ruled unconstitutional by the state Supreme Court in December. That would put subsistence back in the same position it was before the Supreme Court decision in the McDowell case. The resolution also directs the lieutenant governor to place the proposed constitutional amendment before voters in November's general election.

Last month, the Alaska Federation of Natives adopted a policy position supporting a similar constitutional amendment giving subsistence preference to rural residents.

A CONSTITUTIONAL AMENDMENT ESTABLISHING A SUBSISTENCE PRIORITY FOR RURAL ALASKANS

Position paper prepared by
Alaska Department of Fish and Game
and
Alaska Department of Law

March 7, 1990

I. The problem

On December 22, 1989 the Alaska Supreme Court issued a decision in McDowell v. State that the rural preference in the state subsistence law was unconstitutional. This ruling makes it constitutionally impossible for Alaska to enact a law consistent with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). That section makes federal officials responsible for providing a preference for subsistence uses of fish and wildlife by rural residents on federal public lands unless, in laws of general applicability, the state provides for such uses.

Without a solution to the problem created by the McDowell decision, management of fish and wildlife will be conducted both by the federal and the state governments. This will undoubtedly lead to conflicts over the allowable uses of fish and wildlife and take many of the decisions out of the hands of Alaskans and give them to the federal government. The state was granted a stay by the Supreme Court until July 1 with respect to existing regulations only.

II. Objectives to be achieved in any solution

We believe that any solution must meet the following objectives:

The state must retain its traditional role as manager of the fish and wildlife resources in Alaska in order to ensure the continued health and viability of those resources, as well as to make sure management of the resources is responsive to the needs of Alaskans.

There should be a priority for subsistence uses of fish and wildlife by those Alaskans who most rely on such uses, the majority of whom live in rural areas of the state.

The greatest certainty and predictability must be given to all fish and wildlife users, requiring that potential management conflicts between state and federal management agencies be minimized.

III. **Review process**

In the two months since the ruling, the administration has received comments from a wide range of interested and affected Alaskans, reviewed a number of recommended solutions, and met with a variety of user groups including Alaska Native organizations, commercial fishing organizations, and sportsmen and outdoor groups. Since allocation of Alaska's fish and wildlife resources touches nearly everyone in the state, the administration has kept an open mind in reviewing all proposed solutions. For that reason, a great deal of time has been spent in reviewing the legal parameters of the court ruling and all such proposals.

IV. **Options suggested**

* Ask the Alaska Supreme Court to reconsider its decision in McDowell.

The state requested a rehearing of the supreme court's decision, arguing that the court overlooked or misconceived several legal principles and material facts. That request for rehearing has been denied.

* Amend the Alaska Constitution to authorize a subsistence priority for rural residents.

Since this is the preferred option chosen by Governor Cowper, it will be discussed in more detail in sections V and VI of this paper.

* Amend ANILCA to eliminate the federal subsistence priority for rural residents.

The administration rejected this approach primarily because it does not have the support of either the Alaska Congressional delegation or the Alaska Native community, both of which would be essential for any amendment to pass Congress. ANILCA was crafted as a compromise which balanced a number of competing interests. Amending it would require an agreement among the state, the Alaska Native community, and the Alaska Congressional delegation at the very minimum. In addition, in the 1978 subsistence statute, throughout the ANILCA legislative process, in the 1982 statewide ballot referendum, and in the 1986 subsistence statute the state has continually supported A subsistence priority FOR rural residents.

* Amend ANILCA to preempt state law as necessary to grant rural residents a subsistence priority statewide.

Under this scenario, we would ask Congress to apply the supremacy clause and require the state to give rural residents a subsistence priority statewide, despite the constitutional problems addressed by the Alaska Supreme Court in McDowell. Because of state sovereignty principles, this was not considered to be an option that the state should willingly support. Without state support, it is probably not politically attainable.

* Amend state law to provide a subsistence priority to state residents most dependent on fish and wildlife, as determined through some kind of individualized permitting system, and then amend ANILCA to conform to the state law.

This option was initially suggested by Governor Cowper early in the debate on how to resolve the dilemma posed by the supreme court's ruling. State officials went to great lengths to attempt to develop a system that would be consistent with the state constitution. The tentative proposal was for a three-member Subsistence Commission with powers and authorities similar to the Commercial Fisheries Entry Commission to determine who was a "subsistence user," using a set of criteria for making those determinations. This option was eventually rejected because 1) it would be extremely burdensome and intrusive on those Alaskans it was intended to protect; 2) it would create a large, cumbersome bureaucracy with a cost of many millions of dollars a year; 3) it was estimated that at least 100,000 individual determinations would need to be made, all of them subject to appeals and litigation; 4) it would require a minimum of three to four years to establish such a system and make the initial determinations; and 5) there was a serious question whether such a system would be consistent with the Alaska Constitution as interpreted in McDowell.

In addition, this approach would still result in state law being inconsistent with the subsistence preference provisions of ANILCA, in the absence of an amendment to ANILCA, already determined to be unattainable. This create an unacceptable risk of a federal takeover of fish and wildlife management.

* Interpret section 804 of ANILCA as preempting state law on federal lands (as those may ultimately be defined by the courts), with implementation carried out by state officials.

State and federal attorneys agree that Congress intended the ANILCA subsistence priority for rural residents to apply on federal lands and to preempt conflicting state laws. A legal argument can be made that, under the supremacy clause of the United States Constitution, state officials can implement the ANILCA subsistence priority by rural residents on federal lands directly under ANILCA. On the other hand, it can be argued that state officials are bound by the state constitution and cannot implement a conflicting federal law.

Another uncertainty is the geographic scope of the ANILCA preference. "Public lands" are defined as "land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except [valid state and Native corporation selections]." "Federal land" is defined as "lands the title to which is in the United States after the date of enactment of this Act." "Land" is defined as "lands, waters, and interests therein."

The possible geographic scope of the ANILCA preference under these definitions ranges from "narrow" (wildlife only when they are physically present on federal land, and fish only when in non-navigable waters on federal land) to "broad" (wildlife throughout their migratory range, even when not on federal land, and fish wherever they are in any waters of the state, including the territorial sea).

This option is not the preferred option for reasons in addition to the uncertainty over the geographical scope of ANILCA. Since the state would be acting under federal, as opposed to state authority, there would undoubtedly be litigation challenging the ability of the state to proceed directly under ANILCA. The more direct avenue is to amend the state constitution to allow state agencies to act directly under state law. However, the preemption option may provide a fallback position if the constitutional amendment fails.

* Seek cooperative agreements with the Secretaries of Interior and Agriculture under which the ANILCA priority would be implemented by them, perhaps only through closure authority to avoid dual management of the resource.

It is clear that a failure by the state to give rural residents a subsistence priority, something which McDowell now says is impossible under the state constitution, would result in a federal takeover of fish and game management for subsistence uses on federal public lands. The Secretary of the Interior has made it clear he wishes to see the state resolve this issue in order to bring us into compliance with the provisions of ANILCA. One former Interior Department official believes that the Secretaries' authorities to implement a subsistence priority for rural residents on federal lands is limited under ANILCA to their authority to close the lands to the taking of fish and wildlife until the priority is satisfied. However, current Department of the Interior officials have also made it clear that they believe their authority to be much more expansive than mere closure authority.

This is an option that, of necessity, is being discussed with federal officials both for the time period between July 1 and the effective date of a constitutional amendment, and in the event an amendment does not pass the Legislature or the voters. Because it

easily could result in a federal takeover of fish and wildlife management however, it is not the preferred option.

* Use current management tools -- seasons, bag limits, same-day (or even two-day) airborne prohibitions, etc. -- creatively to benefit those most dependent on fish and wildlife.

Some people point to the fact that prior to the state's 1978 statute giving subsistence uses a priority, the Boards of Fisheries and Game had the authority to provide for subsistence uses using the traditional regulatory tools of methods and means. They argue that in order to make the state approach consistent with ANILCA, these traditional regulatory tools could be employed to explicitly favor rural residents. Any direct attempt by the boards to implement such a priority through regulations would be subject to the same constitutional challenge as the rural preference struck down in McDowell. In addition, ANILCA only stays the federal responsibility for providing the subsistence priority by rural residents on federal lands if the state has, in laws of general applicability, the same definition of and priority for subsistence as the federal law. Simply using traditional management tools would not satisfy that requirement of ANILCA, again running the risk of a federal takeover.

* Challenge the ANILCA subsistence priority for rural residents and/or Congress' power to require such a priority on constitutional grounds.

The administration does not support this option primarily because we support the rural subsistence preference contained in ANILCA and believe an attempt to challenge that priority is not warranted. Such a challenge would probably be based on the grounds that the ANILCA priority violates 1) equal protection, applicable to federal statutes under the due process clause of the Fifth Amendment to the United States Constitution, and 2) the statehood compact. With respect to the first argument, the federal constitution has a much more deferential equal protection test than the Alaska Constitution, and the state is not considered to have very strong legal arguments. With respect to the second argument, a unanimous United States Supreme Court ruled in 1976 that the federal government has the constitutional authority to regulate fish and wildlife on federal lands.

* Amend the Alaska Constitution to authorize a subsistence priority for Alaska Natives.

Although many of the rural residents who most rely on fish and wildlife for their economic and cultural well-being are Alaska Natives, there are also many non-Native rural residents who depend on the same fish and wildlife. The administration does not support

a Native only preference. Further, such a priority would not be consistent with ANILCA.

* Amend ANILCA to authorize a subsistence preference for Alaska Natives.

The same position as above applies to this option.

V. The administration's preferred approach

In McDowell, the Alaska Supreme Court struck down the state's subsistence priority for rural residents because it violated article VIII of the Alaska Constitution. It did not rely on any provisions of the federal constitution in striking down the subsistence priority for rural residents. Accordingly, the Alaska Constitution can be amended to make constitutional the subsistence priority by rural residents struck down in McDowell.

Amending the state constitution is the cleanest way to allow the state to again be consistent with ANILCA and provide a subsistence priority by rural residents. Such an amendment would ensure that the state would retain management of fish and wildlife on federal land, a goal which played a major role in the statehood movement. In addition, it would permit the state to ensure that rural residents most reliant on fish and wildlife have the necessary opportunities to take those resources when needed. The state has attempted to do so for more than 10 years now, only to be stymied by one court decision after another. By authorizing a subsistence priority for rural residents in the Alaska Constitution, the state would have clear authority to finally implement what has been state policy for more than a decade.

VI. Further Discussion and Considerations

A. The amendment and its effect

The governor has proposed a constitutional amendment which would authorize the limitation of subsistence uses of fish and wildlife to rural residents. Such uses already can be the subject of a priority under the current article VIII, section 4, which authorizes "preferences among beneficial uses." The proposed section 19 would be added to article VIII, and would read:

> Nothing in this constitution prohibits the Legislature from limiting the taking of fish and wildlife for subsistence uses to rural residents, and from providing for the allocation of that taking among rural residents on the basis of local or community residents, availability of alternative resources, and customary and direct dependence on

a fish or game population as the mainstay of livelihood.

The wording of the proposed resolution makes clear that:

> The intent of the amendment proposed by this resolution is to validate, ratify, and reinstate any provisions of [the 1986 state subsistence law] and of any regulations adopted [thereunder], which otherwise might have to be declared invalid under the Alaska Supreme Court's decision in McDowell v. State, 785 P.2d 1 (Alaska 1989), and to explicitly reverse the effect of the McDowell decision as to those provisions and regulations.

If this resolution passes the Legislature and in the November general election, the state would be authorized to have legislation consistent with ANILCA and the legislation which was enacted in 1986 would be validated retroactively, rather than requiring reenactment. The principle of retroactive validation is accepted in caselaw from other jurisdictions, and has been noted by the Alaska Supreme Court in Matthews v. Quinton, 362 P.2d 932, 938 (Alaska 1961).

B. What happens between July 1 and the general election?

If this resolution passes the Legislature, the state could ask the Alaska Supreme Court for an extension of the stay in McDowell until after the November general election results were certified. The justification for the request would be that, if the amendment does pass in the general election, the disruptions and start-up costs for a contingency plan which would only be effective from July 1 through the general election would not be in the best interests of the state.

The court may not be receptive to such a request, since in a February 26, 1990, order denying a request that the current stay be vacated, the court stated:

> The stay entered on January 5, 1990, will expire on the close of business July 1, 1990. Extensions to the stay will not be granted.

The court may have been indicating that the state must face up to the consequences of the McDowell decision. The comment, however, was made in a context in which no party had asked for an extension of the stay. It is possible that if a constitutional amendment did pass the Legislature, the court might consider an extension. At the same time, we cannot rely on an extension of the stay. Thus, a contingency plan will have to be developed which would apply from July 1 until after the November election, in the

event the stay were not continued. The state is currently participating in the federal contingency planning process.

C. The amendment's relationship to the Kenaitze problem.

The proposed amendment only attempts to resolve the problem created by the supreme court's decision in McDowell, which conclusively precludes the state from having a law that is consistent with the definition of and priority for subsistence uses in ANILCA. This imminently threatens the unified management so necessary for the welfare of the fish and wildlife in Alaska and for those who use those resources. The proposed amendment does not attempt to address other subsistence issues, such as the inconsistency of the state's definition of "rural" and Congress's use of that term in ANILCA, as identified by the ninth circuit court of appeals in Kenaitze Indian Tribe v. State, 860 F.2d 312 (9th Cir. 1988).

In that case, the court held that the state's current definition of "rural area" found in AS 16.05.940(25) is not consistent with the use of the term "rural" in ANILCA. The state had defined "rural area" as:

> a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area.

The ninth circuit concluded that focusing on the economy of the community or area was not consistent with Congress's intent. It based its view on what it considered the "common sense" meaning of "rural" as being connected to population levels and densities. If the proposed constitutional amendment passes, it would not resolve the "rural" issue; unless the proposed constitutional amendment passes, however, the state cannot even attempt to achieve consistency between its definition of "rural" and the federal one.

Even if the McDowell decision had not been issued, it would still be premature to consider changing state law to define "rural" in a way which would be consistent with ANILCA. Although the ninth circuit said the state definition was not consistent, it did not say what the term "rural" in ANILCA meant, and gave the state no clear guidance as to how the state definition should be amended to make it consistent with ANILCA. The meaning of "rural" in the federal law is currently the subject of federal district court proceedings in the Kenaitze case. Until that litigation provides more guidance as to what would be consistent with ANILCA, it would be inappropriate to try to amend state law to match the federal law. At this point, of course, the state does not even

have the authority to define subsistence in terms of rural residents, quite apart from refining the "rural" definition.

If this constitutional amendment passes, the state will in the meanwhile have gathered more information about the scope of the term "rural" in ANILCA through the federal district court case. A reasoned decision can then be made whether the best course is to repeal the state definition, replace the state definition with another definition, or attempt to amend ANILCA to reflect the state definition in the federal law.

D. Severability

If the constitutional amendment validating the 1986 subsistence law does not pass, the ANILCA standards will apply to federal land in the state. However, what the rules would be for state and private lands depends on the question of severability.

Under McDowell, the limitation of the subsistence priority to only rural residents in the 1986 state law is invalid on state and private lands. However, the court did not decide whether the remainder of the 1986 law, including the priority of subsistence uses over other uses, is also invalid.

The basic question is whether the Legislature would have intended the subsistence mandate and priority to remain in effect if the class of subsistence users included all Alaskans. In that event, hunting by nonresidents and sport and commercial fishing would have to be eliminated before subsistence uses (open to all Alaskans) on any fish stock or game population could be cut back. (The subsistence uses would be subject to reasonable regulation, however, without requiring other uses be eliminated.)

If the Legislature would have intended that the rest of the law fall if the rural limitation were invalid, then the boards would not be required to authorize subsistence fishing and hunting (open to all Alaskans), and would not be required to give it a priority. The boards could in their discretion, however, authorize subsistence and give it a priority, in any given situation.

This question will probably be presented to the superior court when the case returns there from the supreme court.

Introduced: 3/7/90
Referred: Resources, and Judiciary

BY THE TRANSPORTATION COMMITTEE

IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 90

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of plants, fish, and wildlife by Alaska Native residents and rural residents.

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

* Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 19. SUBSISTENCE USES OF PLANTS, FISH, AND WILDLIFE. Nothing in this constitution prohibits the legislature from limiting the taking of plants, fish, and wildlife for subsistence uses to Alaska Native residents and rural residents, and from providing for the allocation of that taking among Alaska Native residents and rural residents on the basis of local or community residence, availability of alternative resources, cultural, traditional, and customary uses of plants, fish, or wildlife, or dependence on plants or a fish or wildlife population as the mainstay of livelihood.

* Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

MAR 15 RECD

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3850

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM March 15, 1990

SUBJECT: Sectional Summary of House Joint Resolution 90; Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of plants, fish, and wildlife by Alaska Native residents and rural residents

TO: Representative Kay Wallis

FROM: George Utermohle GU
Legislative Counsel

This memorandum is a sectional summary of HJR 90.

A summary or analysis of a resolution is not an authoritative interpretation of the resolution. The resolution itself is the best statement of its contents.

Section 1 of the resolution amends the Natural Resources Article, Article VIII, of the Alaska State Constitution by adding a new section 19 entitled: Subsistence Uses of Plants, Fish, and Wildlife.

The legislature is specifically authorized to limit the taking of plants, fish, and wildlife for subsistence uses to residents of the state who are Alaska Natives or who reside in rural areas. The legislature may further restrict subsistence uses of plants, fish, and wildlife by Alaska Natives and rural residents on the basis of local or community residence, availability of alternative resources, cultural, traditional, and customary uses of plants, fish, or wildlife, or dependence on plants or a fish or wildlife population as a mainstay of livelihood.

This section exempts the legislature from those provisions of the Alaska Constitution that would otherwise prohibit it from limiting subsistence rights to certain classes of persons.

Section 2 of the resolution provides that this amendment shall be placed on the ballot at the next general election for acceptance or rejection by the voters of the state.

GU:mi
wkmi6/057

DRAFT 3

HOUSE JOINT RESOLUTION

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

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

* Section 1. Article VIII, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE AND RENEWABLE NATURAL RESOURCES. Subsistence uses of fish and wildlife and renewable natural resources owned by the state are the customary and traditional, non-wasteful, non-commercial uses of those resources available in the area where a resident resides, taken and used by a resident for personal or family consumption or for traditional trade. Nothing in this Constitution prohibits the legislature from granting a preference for subsistence uses of fish and wildlife and renewable resources in rural areas of the state or from allocating subsistence resources among users.

THE

CONSTITUTION

OF THE

STATE OF

ALASKA

LEGISLATIVE INFORMATION OFFICE
3111 C STREET, SUITE 150
ANCHORAGE, ALASKA 99503

Stephen McAlpine

Lieutenant Governor

Article VIII

Natural Resources

Section 1 - Statement of Policy.

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

Section 2 - General Authority.

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 3 - Common Use.

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

Section 4 - Sustained Yield.

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Section 5 - Facilities and Improvements.

The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

Section 6 - State Public Domain.

Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

Section 7 - Special Purpose Sites.

The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

Section 8 - Leases.

The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

Section 9 - Sales and Grants.

Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

Section 10 - Public Notice.

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Section 11 - Mineral Rights.

Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

Section 12 - Mineral Leases and Permits.

The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

Section 13 - Water Rights.

All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation.

Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

Section 14 - Access to Navigable Waters.

Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

Section 15 - No Exclusive Right of Fishery.

No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State. [Amendment approved August 22, 1972 - Effective October 14, 1972]

Section 16 - Protection of Rights.

No person shall be involuntarily divested of his right to the use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law.

Section 17 - Uniform Application.

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

Section 18 - Private Ways of Necessity.

Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

Introduced: 1/22/90
Referred: Resources, and Judiciary

6-1892E

BY REP. BARNES, Furnace, Hanley, Martin, Zawacki

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 415

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to subsistence hunting and fishing."

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

* Section 1. AS 16.05.258(a) is amended to read:

(a) The Board of Fisheries and the Board of Game shall identify the fish stocks and game populations, or portions of stocks and populations, that are customarily and traditionally used for subsistence [IN EACH RURAL AREA IDENTIFIED BY THE BOARDS].

* Sec. 2. AS 16.05.258(c) is amended to read:

(c) The boards shall adopt subsistence fishing and subsistence hunting regulations for each stock and population for which a harvestable portion is determined to exist under (b)(1) of this section. If the harvestable portion is not sufficient to accommodate all consumptive uses of the stock or population, but is sufficient to accommodate subsistence uses of the stock or population, then nonwasteful subsistence uses shall be accorded a preference over other consumptive uses, and the regulations shall provide a reasonable opportunity to satisfy the subsistence uses. If the harvestable portion is sufficient to accommodate the subsistence uses of the stock or population, then the boards may provide for other consumptive uses of the remainder of the harvestable portion. If it is necessary to restrict subsistence fishing or subsistence hunting in order to assure sustained yield or continue subsistence uses, then the preference shall be limited, and the boards shall distinguish among subsistence users <u>on the basis of their</u> [, BY APPLYING THE FOLLOWING CRITERIA:

consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of non-edible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, "family" means persons related by blood, marriage, or adoption <u>living in the same household</u>, and a person living in the household on a permanent basis;

* Sec. 7. AS 16.05.940(26) is repealed.

House of Representatives

While in Session:
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(907) 465-4942

P.O. Box 47001
Pedro Bay, Alaska 99647
(907) 850-2208

Chair
Special Committee on Foreign Trac
Vice Chair
Resources Committee
Member
Health, Education &
Social Services Committee

Rep. George Jacko, Jr.

M E M O R A N D U M

TO: All Legislators

FROM: Representative George Jacko, Jr.

DATE: April 3, 1990

SUBJECT: HJR 74 (Constitutional Amendment for Subsistence)

As most of you know, earlier this session I introduced a resolution that proposes to amend the State Constitution to allow for a subsistence preference. As many of you are also aware it has been pegged by the media and other legislators as a very "divisive" issue.

I've disagreed with that statement from the start, which is why I am happy to pass along to each of you a copy of the poll that the Dittman Research Corporation of Anchorage conducted during March. In a random telephone survey, 547 Alaskans were contacted and 51 percent of the respondents supported the constitutional amendment.

Also attached is a copy of the Associated Press story that reporter Brian Akre wrote about the poll. Please note the last three paragraphs of the article, which list the percentages in favor of a constitutional amendment, by geographic region and by political party.

In January, Mark Hellenthal and Associates conducted a similar poll and contacted 606 people statewide. The numbers were even more conclusive, 68.6 percent of those contacted support a rural priority. The poll asked the following question: "Until December, Alaska law defined subsistence use as providing a priority for rural Alaskans over urban Alaskans. Do you favor or oppose providing a priority for rural Alaskans in the taking of fish and game for subsistence use?"

I would appreciate your letting me know if you need futher information on subsistence and if I can count on your vote.

Thanks for your support.

GOVERNOR COWPER HAS PROPOSED AN AMENDMENT TO ALASKA'S CONSTITUTION WHICH WOULD ALLOW PREFERENCE TO RURAL RESIDENTS IN THE TAKING OF FISH AND GAME. DO YOU SUPPORT OR OPPOSE SUCH AN AMENDMENT?

DEMOGRAPHICS	UNSURE	SUPPORT	OPPOSE
TOTAL.....	15%	51%	34%
LOCATION			
RURAL.....	12%	69%	20%
CENTRAL.....	6%	47%	46%
SOUTHCENTRAL....	21%	47%	33%
ANCHORAGE.....	14%	47%	38%
SOUTHEAST.....	22%	55%	23%
AGE			
18-24 YRS OF AGE	22%	47%	31%
25-40.....	14%	56%	30%
41-55.....	12%	48%	41%
56+ YEARS OF AGE	22%	41%	36%
SEX			
MALE.....	13%	47%	39%
FEMALE.....	17%	54%	29%
INCOME			
NO RESPONSE.....	33%	48%	18%
TO 20,000 INCOME	17%	51%	32%
$20-40,000.....	19%	46%	34%
$40-60,000.....	10%	55%	35%
$60,000+.....	10%	51%	39%
DO YOU WORK FOR			
FEDERAL GOVT....	9%	59%	32%
STATE GOVT.....	8%	60%	32%
LOCAL GOVT.....	13%	57%	30%
PRIVATE SECTOR..	16%	50%	34%
NOT IN WORKFORCE	18%	42%	40%
VOTER REGISTRATION			
DEMOCRAT.....	14%	58%	28%
REPUBLICAN.....	13%	45%	43%
NON-PARTISAN....	15%	49%	35%
NOT REGISTERED..	21%	54%	24%
TIME IN ALASKA			
UNDER1YR IN COMM	0%	42%	58%
1-4 YEARS.....	10%	62%	27%
5-9 YEARS.....	13%	55%	32%
10-14 YEARS.....	15%	52%	34%
15+ YEARS.....	17%	47%	36%

DITTMAN RESEARCH CORPORATION MARCH 1990 n=547

Poll finds support for amendment

JUNEAU (AP)—A majority of Alaskans support Gov. Steve Cowper's proposed constitutional amendment to retain the state's rural preference for subsistence fishing and hunting, according to a recent statewide poll.

The poll conducted by Dittman Research Corp. of Anchorage showed 51 percent of the respondents supported the amendment, 34 percent were opposed and 15 percent were undecided.

The results do not indicate that the issue has sharply divided Alaskans, as some lawmakers predict it will, pollster Dave Dittman said Friday.

"I just don't see it as being that divisive," he said. "There's just not that strong an opposition to it, but there's not that strong support either at 51 percent. I think it's something folks would rather not worry about."

The random telephone survey of 547 Alaskans was conducted March 13-18. It has a error margin of plus or minus 4.5 percent.

The subsistence question was one of 26 questions on a monthly survey that Dittman conducts for a variety of clients. No client sponsored the

(See POLL, Page A-7)

POLL: 51 percent favor rural preference

(Continued from Page A-1)

subsistence question, Dittman said.

The Legislature is considering several subsistence measures in response to a recent Alaska Supreme Court ruling. The court ruled the state subsistence law was unconstitutional because it provided a preference to rural residents.

Federal law, however, requires a rural preference. Cowper has proposed changing the state Constitution to allow that preference. If two-thirds of the House and Senate agrees, the measure will be referred to voters in November.

Should the Legislature fail to come up with a solution, the federal government may assume management of fish and game on its lands within Alaska as early as summer, officials say.

Cowper reacted cautiously to the poll results.

"This trend looks good, but it's very early and the public hasn't really heard the arguments on both sides," he said. "The amendment just keeps the status quo, and my guess is that most people are satisfied to keep things as they are."

Rep. George Jacko, D-Pedro Bay, introduced a measure similar to Cowper's. He said he also was pleased with the poll.

"I'm actually thrilled," he said. "The numbers look good. The next thing to do is to get the resolution out of the House."

Sen. Johne Binkley, who supports Cowper's proposal, said he was not surprised by the results. "I think it's encouraging. It shows the majority of Alaskans support the system of subsistence that we have."

Rep. Ramona Barnes, an Anchorage Republican who opposes solving the problem with a constitutional amendment, said it's too early in the debate for a poll to have much meaning.

"There's not been a great deal of discussion statewide," she said. "Only now are the sports groups getting involved."

Two factors may have affected the poll's results.

Respondents were asked if they would support or oppose Cowper's amendment "which would allow preference to rural residents in the taking of fish and game." The question did not specifically mention "subsistence" and did not provide any further information.

"I don't think people understood the question," Barnes said. "When it's explicit, they're very opposed to amending the Constitution."

The poll also was not limited to registered voters or those most likely to vote. But Dittman said generally about 95 percent of those who respond to such telephone surveys in Alaska are registered.

According to the poll, support for the amendment is strongest among rural residents—69 percent in favor compared with 20 percent opposed. It was weakest in the Fairbanks-Interior region—47 percent in favor compared with 46 percent opposed.

Anchorage was 47 percent in favor and 38 percent opposed, Southcentral had 47 percent in favor and 33 percent opposed, and Southeast residents favored the measure 55 percent to 23 percent.

Support among Democrats was stronger than among Republicans. Democrats favored the amendment 58 percent to 28 percent, while Republicans were split 45 percent in favor and 43 percent opposed. Non-partisans favored the measure 49 percent to 35 percent.

SUBSISTENCE TIME TABLE

1959 Alaska becomes a state and for the first time assumes management authority of her fish and game resources. The new constitution abolishes fish traps and specifies that fish and game shall be managed on a sustained yield basis for the common good.

1968 The discovery of oil at Prudhoe Bay and subsequent need for a pipeline to the ice free port of Valdez forces the resolution of aboriginal land claims.

1971 Alaska Native Claims Settlement Act brings wealth and technology to the bush. This Act extinguishes aboriginal claims to fish and game.

1972 Due to circumstance unrelated to Alaska, Congress passes The Marine Mammals Protection Act, seizing management authority of ten species of marine mammals from states and establishing federal Native subsistence policy. Alaska is forced to abandon her extensive conservation programs and the federal government refuses to fund any replacement programs.

1974 Construction of the Trans-Alaska Pipeline brings wealth and population growth to urban centers. Increased access to transportation technology fuels tension between urban and rural Alaskans competing for fish and game.

1978 Seeing the need to protect subsistence users and fearing federal intervention, Alaska's legislature establishes two tiered subsistence criteria when stocks are low: 1) Subsistence gains priority over other uses 2) when stocks are too low for all subsistence uses, priority is based on A. customary and direct dependence on the stock as a mainstay of livelihood, B. local residency, C. availability of alternate resources.

1980 Alaska National Interest Lands Conservation Act designates over one hundred million acres of land as federal preserves and sets "rural" as a requirement for subsistence use on all federal land. The Alaska boards of fish and game adopt rural priority regulations to comply with federal standards and maintain control on federal lands.

1982 Voters reject initiative to repeal rural priority At this time urban residents were still eligible for subsistence as first tier users.

1985 The Alaska Supreme Court decides two cases, one declaring rural priority regulations inconsistent with the 1978 statute and the other forcing the state to establish subsistence regulations even when stocks are plentiful. A federal court rules that urban is any community with a population larger than 2,500 people, and declares everything else rural for subsistence purposes.

1986 To comply with the Court decosion the Alaska Legislature re-writes laws governing subsistence establishing rural priority for first and second tier users.

1989 The Alaska Supreme Court rules rural priority unconstitutional. The court ruling states "One purpose of the 1986 act (like the 1978 act) is to ensure that those Alaskans who need to engage in subsistence hunting and fishing in order to provide for their basic necessities are able to do so." It also states that "many people living in urban areas have legitimate claims as subsistence users, while many people living in rural areas have no legitimate claims."

This ruling upholds the right of the State to regulate subsistence but declares that the urban rural distinction is to crude a test to determine the actual needs of the people of Alaska.

Alaska House Of Representatives

Resource Committee

Subsistence Hearings

March 10, 1990

Dear Representatives

My name is Rick Bierman, I live in Juneau and I am a subsistence user of fish and game. My family and I own land on Shelter Island and we depend on local deer populations as a major source of food. If subsistence regulations are activated locally, people from Haines and Skagway will have priority use of deer populations on Shelter and Douglas Islands, and the local Admiralty area---even if these people are not subsistence users and have never hunted in the Juneau area before.

In 1989, The Alaska Supreme Court ruled rural priority unconstitutional. The court ruling states "One purpose of the 1986 act (like the 1978 act) is to ensure that those Alaskans who need to engage in subsistence hunting and fishing in order to provide for their basic necessities are able to do so." It also states that "many people living in urban areas have legitimate claims as subsistence users, while many people living in rural areas have no legitimate claims." This ruling upholds the right of the State to regulate subsistence but declares that the urban rural distinction is to "crude" a test to determine the actual needs of the people of Alaska.

Like any simple approach to a complicated problem, rural priority sounds much better then it works. To make matters worse, the original legislation has been altered by so many governing bodies, that it, all to often, achieves the opposite effect that it was intended to. A constitutional amendment will etch this injustice in stone.

Protecting the rights of people who depend on wild resources to maintain their existence, is a proper function of government. However, protection must be applied to the people who have legitimate claims, not handed out or withheld solely on the basis of where one chooses to reside. Although, as Governor Cowper pointed out, a more equitable solution will be costly; democracy was not designed to be efficient, it was designed to protect individual rights, and justice has never come cheaply.

It is my opinion that the State's original 1978 statute stressing local priority came closest to the ideal of protecting the individual rights of Alaskans who depend on wild resources. It is the federal government with the enactment of ANILCA, that imposed rural priority over local priority---and it is the federal law not the constitution of Alaska that needs to change; anything short of this, will be a cop-out!

Sincerely

Rick Bierman and family

P.O. Box 120166

Auke Bay, Alaska 99821

Rick Bierman

SUBSISTENCE SITES: March 21, Wednesday 6:30-9:30p.m.

6:30 - 7:25 p.m. Southeast:
Angoon-Gabriel George-788-3553 .

Craig-Fred Hamilton-755-2394- listen only

Edna Bay
Elfin Cove
Gustavus

Haines-Marilyn Wilson-766-2211

Hoonah-Wanda Culp -945-3557

Hydaburg-Adrian LeCornu-285-3761/285-3939

Kake-Marvin Kadake-785-3804

Kasaan

Klukwan-Joe Hotch-767-5556/789-5505/766-2210

Klawock-James Martinez-Klawock IRA President -755-2263

Metlakatla- Mayor is in town in person. Does he wish to comment?

Pelican-Jim Phillips

Port Protection

Tenakee-Ray Paddock

Saxman-Matilda Kushnik -225-2058

Skagway- Minnie Stevens-983-2885

Wrangell-John Feller-874-3261

Yakutat-Hank Porter-784-3250

10 minute break

7:35-8:30 Southcentral:

Akhiok-Mitch Simeonoff or David Eluska-836-2229/836-2210

Chenega Bay-Daryl or Mr. Charles Selanoff/573-5132

Chickaloon

Chignik-Ron Bowers/749-2280

Glacier View

Karluk-Mary Reft/241-2214

Larsen Bay-

Old Harbor-Ron Berntsen or Sven Haakanson/286-2204
286-2233/286-2287

Ouzinkie-Joe Llanos or Zack Chichenoff/680-2226/2209/2264

Perryville-Boris Kosbruk/853-2211

Port Lions-Bobby Anderson or Pete Squartsoff/454-2332/454-2207

Talkeetna

Tatitlek

Trapper Creek

Talkeetna

Skwentna

Sutton

Willow

10 minute break

8:40-9:30 Southwest:

Aleknagik-842-5953

Clarks Point-236-1221

Egegik-233-2231

Ekwok-464-3311

Levelock-287-3030

Manokotak-289-1027

Naknek (Bristol Bay Borough)-246-4224

New Halen-571-1226

New Stuyahok-693-3111

Nondalton-294-2210

Manokotak-289-1027

Pilot Point-797-2205 (Janice Ball)

St. Paul - 546-2331

Togiak-493-5820

Unalaska-581-1251

end

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MEMORANDUM

TO: Senator Bettye Fahrenkamp

FROM: William P. Horn WPH — **VIA TELECOPY**

DATE: March 19, 1990

SUBJ: Comments on Drafts of New Article VIII, Section 19

Each of the drafts of a new Article VIII, Section 19 of the Alaska Constitution appears to be an effort to satisfy the requirements of Sections 803 and 804 of the Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96-487, 16 U.S.C. §§ 3113, 3114. The first draft looks inadequate; the second and third drafts appear to set the stage for compliance with ANILCA. In addition, there are significant differences among the three iterations as discussed below.

DRAFT ONE

This would authorize the establishment of a preference system for subsistence uses in rural areas of Alaska. However, it is unlikely to enable the Legislature to satisfy ANILCA's requirements. The draft is deficient on at least three points.

First, it introduces the term "non-commercial uses" as part of the subsistence definition. Section 803 expressly provides for barter and sale of handicraft articles made from non-edible byproducts of subsistence resources and blanket restriction regarding commercial use may not comport with ANILCA.

Second, the "personal use" limitation is more strict than § 803. The Federal definition includes reference to "sharing" of subsistence resources. This draft may rule out such sharing. A factual hypothetical is as follows: Mr. A in a bush village

routinely brings in moose that are provided to others in the village. He personally uses one animal. A definition that rules out sharing would likely mean that the taking of the moose to be given to others would not qualify for the preference. This is inconsistent with § 803.

Third, the new section does not provide for a "second tier" allocation per § 804. ANILCA provides a generalized preference to "rural residents" -- this is the so-called "first tier." When resources are inadequate to provide for the first tier class of individuals, § 804 authorizes an allocation within this group. A subset of the first tier class gets an added priority based on (1) customary and direct dependence, (2) local residency, and (3) availability of alternative resources. Draft One does not provide for such a second tier allocation.

However, this may not be a fatal flaw as the Alaska Supreme Court has indicated that allocation based on these kind of criteria appears constitutional. To ensure satisfaction of ANILCA, subsequent implementing legislation or regulations should include a second tier arrangement per § 804.

DRAFT TWO

This version of a new Section 19 addresses in significant fashion the "non-commercial" and "personal use" issues raised above. It also expressly authorizes the creation of a second tier allocation system. The draft appears to empower the Legislature to pass a bill that can comply with ANILCA. Stylistically, it follows the form of Article VIII, Section 15 that set up the limited entry fishing program. That section uses the "does not restrict/does not prohibit" form rather than an affirmative authorization.

Obviously, the constitutional amendment by itself will not satisfy ANILCA. An appropriate State statute will have to be enacted to accompany or follow the amendment.

DRAFT THREE

This tracks ANILCA more closely than the other two versions. It would also enable the Legislature to act to comply with the Federal statute. It appears, however, that the second paragraph is an attempt to merge the first and second tier classes into one group. That is not authorized by ANILCA § 804. Indeed, the effort to limit the size of the first tier class has been slapped down by Ninth Circuit U.S. Court of Appeals in the Kenaitze case. Once the State manages to get by the newer McDowell hurdle, the Kenaitze matter still must be resolved.

BIRCH, HORTON, BITTNER AND CHEROT
A PROFESSIONAL CORPORATION

CONCLUSION

Drafts Two and Three appear to do the job of taking steps to satisfy ANILCA. I would suggest using the first paragraph of Draft Three and an altered version of the second paragraph of Draft Two:

> SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE AND RENEWABLE NATURAL RESOURCES. Subsistence uses of fish and wildlife and renewable natural resources are the customary and traditional, non-wasteful, non-commercial uses of these resources, taken by a resident in the area where the resident resides for personal or family consumption, for barter or sharing for personal or family consumption, or for customary trade.
>
> The legislature may grant a preference for subsistence uses of fish and wildlife and renewable resources in rural areas of the State and may allocate subsistence resources among users.

WPH:jap
WPH221H.ASR

Attachment

Proposed New § 19 of Art VIII

DRAFT ONE SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE AND RENEWABLE NATURAL RESOURCES. Subsistence uses of fish and wildlife and renewable natural resources are the non-wasteful non-commercial uses of locally available resources owned by the state taken and used by residents for personal use.

The legislature may grant a preference for subsistence uses of fish and wildlife and renewable resources in rural areas of the state.

DRAFT TWO SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE AND RENEWABLE NATURAL RESOURCES. Subsistence uses of fish and wildlife and renewable natural resources owned by the state are the customary and traditional, non-wasteful, non-commercial uses of those resources available in the area where a resident resides, taken and used by a resident for personal or family consumption or for customary trade.

Nothing in this Constitution prohibits the legislature from granting a preference for subsistence uses of fish and wildlife and renewable resources in rural areas of the state or from allocating subsistence resources among users.

DRAFT THREE SECTION 19. SUBSISTENCE USES OF FISH AND WILDLIFE AND RENEWABLE NATURAL RESOURCES. Subsistence uses of fish and wildlife and renewable natural resources are the customary and traditional, non-wasteful, non-commercial uses of these resources, taken by a resident in the area where the resident resides for personal or family consumption, for barter or sharing for personal or family consumption, or for customary trade.

The legislature may accord a priority in rural areas for the taking of fish and wildlife and renewable natural resources for subsistence uses, and may provide for the allocation of that taking based upon local or community residence, or customary and direct dependence on the resource.

HOUSE COMMITTEE REPORT

(9)
Date Referred: January 31, 1990 FURTHER REFERRALS:
JUDICIARY

Date of Committee Action: April 21, 1990

The RESOURCES Committee considered: HJR 74

HOUSE JOINT RES. NO. 74 CONST. AMDT: SUBSISTENCE PREFERENCE

Proposing an amendment to the Constitution of the State of Alaska relating to a preference for subsistence use of fish and wildlife and state-owned renewable natural resources.

RECOMMENDATIONS:
[✓] be replaced with CS HJR 74 [✓] the same title
[ ] a new title
[ ] have attached amendment(s)
[ ] do pass
[ ] do not pass
[ ] no recommendation
[✓] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[ ] zero fiscal note _____
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____
[ ] zero fn/analysis _____

SIGNING DO PASS:

DAVIDSON
FOSTER
JACKO

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
MEIBARD		X	
HUDSON		✓	
SHARP		✓	

Chairman's Signature

RECEIVED MAR 12 1990

NATIONAL RIFLE ASSOCIATION OF AMERICA

Publishers of THE AMERICAN RIFLEMAN
AND
THE AMERICAN HUNTER

1600 Rhode Island Avenue, N.W. • Washington, D.C. 20036 • (202) 828-6000

8 March 1990

Rep. Cliff Davidson
Pouch V
Juneau, Alaska 99811

Dear Cliff:

I have enclosed a copy of an article that I have written for Sunday's Anchorage Times. I hope you will read it and consider it when you discuss the Subsistence issue with your colleagues.

Also, on 29 April 1986, the Board of Directors of the National Rifle Association of America unanimously adopted a resolution that included the following language:

"...The National Rifle Association of America supports equal hunting rights for all citizens of the United States without regard to race, creed or place of residence...".

I urge you to support this position.

Thank you for your attention to this matter.

I am,
Sincerely,

WAYNE ANTHONY ROSS
Second Vice President, NRA

LAW OFFICES OF
ROSS, GINGRAS, BAILEY & MINER
A PROFESSIONAL CORPORATION
1007 W THIRD AVENUE, SUITE 204
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Wayne Anthony Ross
ATTORNEY AT LAW

WAYNE ANTHONY ROSS
THOMAS S GINGRAS
ALLEN M BAILEY
EDL MINER
CHERI C JACOBUS

OF COUNSEL
DONALD J MILLER

FROM THE ARENA
Column for Anchorage Times
for Sunday, 11 March 1990

Fifty years after the start of World War II, we still look back on that long, hot summer of 1939, when war clouds were gathering on the horizon, and wonder why the world leaders couldn't see it coming, and why they didn't take steps to avoid that costly conflict.

Today, war clouds of a different nature are gathering on Alaska's horizon. The threatened conflict won't be one involving bullets and bombs. Instead, it will involve words and ballots. But, this war, too, will be costly. It will not cause the deaths of millions of people. It will, however, cause the death of the unity and pride we Alaskans have with and in each other.

Recently, the Alaska Supreme Court ruled in the case of McDowell v. State, that the provision in Alaska's Constitution requiring that all fish and wildlife resources be managed for "common use" is an important constitutional right for all Alaskans. The plaintiffs in the McDowell case had sought the Court's assistance in obtaining the same Subsistence rights as other Alaskans to participate in the taking of wild game and fish. Before the McDowell decision, those people who lived in parts of the State which had been designated "rural", had a preference to take fish and wildlife for Subsistence over other Alaskan citizens who lived in parts of the State designated "urban". Since the McDowell decision, all Alaskans now have equal Subsistence rights.

The only fly in the ointment, however, comes as a result of Federal law. The Alaska National Interest Lands Conservation Act [ANILCA] requires that Subsistence rights be granted only to "rural" Alaskan residents. This directly conflicts with Alaska's Constitution. Title VIII of ANILCA mandates Federal management of fish and wildlife resources on Federal lands in Alaska if Alaska's Subsistence law does not conform with the provisions of ANILCA. Since our Supreme Court has said that a "rural" preference is unconstitutional under Alaskan law, it is clear that our Subsistence law does not conform with ANILCA.

"Urban" residents have fought for years to overturn the discriminatory Alaskan law denying them the same rights as "rural" Alaskans. Now that "urban" Alaskans have now achieved equality with their "rural" cousins, the next step on the road to equal rights should be to overturn the Federal law on Subsistence. After

all, any thinking person has to realize that the rural preference mandated by ANILCA is also discriminatory, just like Alaska's Subsistence law was, prior to McDowell.

So...What does Alaska's Governor propose to do about the Federal law which makes "urban" Alaskans second class citizens, compared to "rural" Alaskans?

Does he request our Congressional delegation to amend the Federal law to allow Alaskans to manage the fish and wildlife of this State without Federal interference? No.

Does he direct the Attorney General to file a lawsuit, seeking to overturn the discriminatory Federal law? No.

Instead, Governor Cowper proposes amending Alaska's Constitution so that, once again, "rural" Alaskan residents will have priority Subsistence rights over "urban" Alaskans.

What Governor Cowper proposes, for a solution, is that we hold a war. "Let's see who wins", he is saying. "We'll let the 'urbans' fight the 'rurals' at the ballot box next November...winner take all".

Unfortunately, in such a divisive war pitting Alaskan against Alaskan, there will be no winner. Instead, we will all be losers. And what happens if the Constitutional Amendment fails to obtain voter approval? We will be another year behind in settling the Subsistence problem, and more divided than we are now.

Already, battle lines are being drawn. Reinforcements are being summoned. A group from Wisconsin that opposes Indian treaty rights intends to become involved if a state constitutional amendment goes to the voters in November. On the other side, the AFN, turning its back on all Natives who live in "urban" areas, has indicated it supports a Constitutional Amendment giving a "rural" priority in Subsistence. Other Lower 48 hunting, fishing, and outdoors organizations are looking towards getting involved in the coming battle in Alaska.

It still is not too late, however, to stop this war before it starts. Alaskans need not battle one another in a ballot box version of the Civil War. Reasoned minds can still prevail.

What is necessary, of course, to prevent this divisive war this Fall, is for the Alaska Legislature to reject the Governor's call for legislation calling for a Constitutional Amendment. Instead, the Legislature should take the necessary steps to amend

in Congress, or challenge in court, Title VIII of ANILCA.

We need not embark upon a course that will pit Alaskan against Alaskan.

Instead, we should agree to work together, as neighbors and friends, to solve the problems caused by the present Federal law. If we don't start to do so soon, future generations will ask why our leaders didn't take steps to avoid a costly and divisive war over Subsistence.

RECEIVED MAR 12 1990

February 20, 1990

David Jurco
HC-89 Box 8101
Talkeetna, Alaska 99676

733-1049

Re: Subsistence Issue

To: Cliff Davidson

Per our telecom this date, please find enclosed an interesting, apparently original solution to our subsistence problem.

The State of Alaska is the second youngest state in the Union. As such, our laws, regulations, etc., etc., are constantly challenged as being not in conformance with our constitution, and, in many cases, either altered, amended, and/or invalidated by our state and federal courts. One issue which has received virtually perpetual attention in the last decade, and one which I have followed with great interest, is that of subsistence rights to the harvest of our states' fish and game resources. As this is the only state that enjoys an official recognition of those rights, we are forced to set precedents, whether we like it or not.

Without exception, all court decisions to date attest to the states' ineptitude in regulating our fish and game resources consistent with our constitution and laws. All imaginative solutions to the probelem have been deemed unfeasible, unconstitutional, and/or illegal. Whosever idea it was to label the Kenai Peninsula as non-rural had to have been born, raised, and residing in the bush. He/she should experience life in New York, Los Angeles, Chicago, or even Seattle prior to making an official distinction between urban and rural. Likewise, whosever idea it was to exclude <u>any</u> Alaska resident from harvest of our fish and game resources failed to read our brief 14,000 word Constitution, which is "one of the best, if not the best, state constitutions ever written".

All this infighting and legal wrangling has effectively eliminated

all but three possible solutions to this apparently insurmountable problem; the light at the end of the tunnel is growing brighter. Solution #1 requires amendment of the Alaska National Interest Lands Conservation Act (ANILCA) so as to conform with state law. As Senator Stevens has stated that he will not introduce legislation aimed at this goal, this solution does not appear feasible. More likely than not, it's impossible. In being the only one of its' kind, that peice of federal legislation enjoyed an abnormally large amount of debate and consideration, from a large number ofinterest groups, prior to becoming law. It is highly unlikely that it would be amended by any less, if at all.

Solution #2 is one that few Alaskans would condone, but has been threatened if our state officials fail to act in an appropriate manner. Just about anyone who is in touch with any form of news media recalls the fiasco on the Kenai River this past summer. That situation was created by Federal Judge Russell Hollands' order, albeit inadvertently, requiring the state to allow the Kenaitzes' a subsistence fishery for the 1989 summer season. Although that probably won't happen again this summer, Judge Holland has threatened to turn all fish and game resource management on federally owned lands over to the U.S. Fish and Wildlife Service if the state fails to permenantly correct the problem. As he has all the power needed to fulfill this promise, it should not be taken lightly. As a large percentage of the land in Alaska is owned by the federal goverment, this would effectively divest the state of managing its' own resources, and should not be considered as even the remotest of possibilities by our state officials.

Solution #3 is the only acceptable solution to the problem. Whether our politicians like it or not is immaterial, although it may mean a radical alteration of their priorities. This solution requires amendment of state law so as to conform with the legal definition of rural, as required by the Kenaitze decision, AND alimination of the states unequal granting of rights and opportunities, as required by the McDowell decision. Federal law (ANILCA) requires granting of a priority right to subsistence harvesters of our fish and game resources, and our state constitution is dedicated to the principle that all res-

idents are equally entitled to this right. Therefore, if all residents of our state were granted the right to harvest as much fish and game as they needed for subsistence purposes, no conflict would exist between the state and federal requirements. However, there would be created a conflict between the various user groups, and it is this inevitable conflict that so distresses our politicians; as well it should. As this concept of resource management has never before been implemented, the ramifications cannot be fully understood, or even contemplated, at this time. Although this would not give rural residents any priority, it would establish subsistence use as a priority over all other uses. This would certainly appease the Kenaitzes', McDowells', Natives, and any other subsistence users.

Although this solution may not be perfect, somebodys' bound to bitch about it, it is the only one in sight. Until a better one can be found, or created by Judge Holland, it should be implemented as expediently as possible.

Sincerely,

David Jurco

cc: Steve Cowper
Sam Cotten
Tim Kelly
Bethye Fahrenkamp
Lennie Boston-Gorsuch
Micheal Crary
Richard Foster
Kay Wallis
George Jacko
Dick Eliason
Johne Binkley
Cliff Davidson

Editor
Juneau Empire
Juneau, Alaska

Dear Editor:

Your March 1990 editorial in support of a Constitutional Amendment to permanently segregate Alaska's citizens into urban and rural factions deserves a response.

The issue, how to legally discriminate against the majority of Alaska's residents in the allocation of fish and game, has received considerable attention from the news media, current and past state administrations, legislatures, legislators, Native organizations, organized recreational groups and individuals. It promises to become the dominate theme of the 1990 elections for Governor, State Senators, Representatives and, hopefully, for the U.S. Senator and Representative.

Alaska has struggled without success to find a legal means to discriminate against the majority while the Native element of the minority has largely been successful in gaining exclusive or preferential access to fish and game resources. Prior to the Native Claims Settlement Act of 1971, in which Alaska Natives (persons of ¼ or more Native blood) received 44,000,000 acres of land and $960,000,000 from the federal and state governments in exchange for abolition of all Native aboriginal claims to fish and game, among other items, allocation of fish and game was accomplished through seasons and bag limits, methods and means of take and time and area zones. While not a perfect system, conflicts among users were minimal, the resources were thriving and no one starved though the mental state of cultural well-being could not be measured then as it cannot now.

The Native quest for supremacy over fish and game started immediately after accepting the ANCSA settlement. Perhaps it never stopped. As mentioned earlier they have been extremely successful largely because of consistently supportive state administrations from 1974 onward and a congressional delegation that has yet to see a Native bill they could not embrace. The Native communities, especially the smaller and more remote ones clearly had and have social problems. Alcoholism, drugs, suicide, inadequate education, excessively high birth rates, fetal alcohol syndrome, village locations that preclude economic success and Native corporations created by ANCSA that do not seem to have vision beyond the ends of their well polished desks and Gucci loafers. The leaders cannot see the villages' problems except in terms of what the state and federal governments should do for their less fortunate relatives. The state has responded by pouring billions of dollars into rural areas only to find that these well intended efforts may have worsened the problems.

The reconquest of aboriginal hunting and fishing "rights" received a big impetus in 1972 when Congress enacted the Marine Mammal Protection Act (MMPA). This act usurped all state authority for the management of marine mammals while according all Natives unlimited access to the resource without restriction, except for those of international treaties. The next milestone came from the Hammond administration which clearly was allied to the Native vote. He pushed for federal intervention on federal lands and also pushed for enactment of a

rural subsistence law. He succeeded in 1978 with the passage of Alaska's first comprehensive discriminatory subsistence law. In 1980 the Hammond administration along with the Alaska Congressional Delegation succeeded in including a mandatory rural preference in the allocation of fish and game on federal lands in the Alaska National Interest Lands Act (ANILCA). Since then ANILCA has become the focal point of the fish and game allocation problem. It requires the state to accord a preference to rural Alaska. If the state does not comply the federal government will take over management of subsistence on federal lands. This threat has been used successfully time and time again to coerce the Alaska legislature into passing legislation that illegally discriminates against the majority of citizens. It has also been used successfully in other venues such as the 1982 referendum to repeal the state's "subsistence" statute which was defeated. The threat of federal intervention did not, however, deter the Alaska Supreme Court in 1989 from finding unconstitutional the state subsistence statute. Once again the Governor, this newspaper, the AFN and Native spokesmen all are calling for discriminatory and probably unconstitutional amendments to our constitution in order to keep out the Feds.

How bad are the Feds: bad, but not all bad! They have been an ever increasing presence since statehood. Statehood is an effective milestone by which the refederalization of Alaska can be charted.

Statehood, ANCSA and ANILCA pretty much completed the task of butchering the 363,000,000 acres of land we know as Alaska. Prior to statehood some national forests, military bases, national parks and monuments had been created. Designating land areas as state, Native (private fee simple) and federal special categories inevitably set into motion conflicting goals and objectives for the use and development of the assigned land masses.

The federal government has allocated nearly 130,000,000 acres for national parks, park preserves, monuments and refuges. These are designations on which the federal government has traditionally, probably with adequate legal bases, exerted considerable if not complete control over the allocation of fish and game resources. Another 110 million acres went to the Bureau of Land Management, Forest Service and military. These areas generally are managed by the states in which they are located.

In addition the federal government has primary control over all marine mammals, all migratory birds, high seas fishery management with direct and sometimes beneficial implications to salmon, pollack, crab, etc. and control of all species subjected to international treaties and certain other federal acts, i.e., Rare and Endangered species. At present the state manages indigenous (non-migrating) game on state lands, private (largely Native lands), BLM and Forest Service lands. Often with few federal/state conflicts. The state attempts to co-manage park preserves and refuges but conflicts with their federal counterparts are frequent, i.e., wolf management on park preserves and refuges, moose and furbearer management on the Kenai National Moose Range, etc. No state or federal management occurs in national parks, at least none worthy of the term.

The federal management scorecard in some instances is dismal. Marine mammals are essentially unmanaged. Natives slaughter and waste walrus by the thousands with only the ivory and oosik (Ospenis) removed (Feds finally made a significant case last year). They take polar bear indiscriminately with a preponderance of the take being young and females. Sea lion populations have crashed in portions of Alaska for unknown reasons. Harbor seals and sea otters whose numbers are unregulated and unutilized in many areas are creating serious impacts on local fisheries, especially on stocks of crabs, abalones and salmon.

The jury is still out on federal management of bottom fish stocks but my guess is that pollock and halibut have been adversely impacted.

But perhaps their greatest failure has been waterfowl management. The Alaska Outdoor Council successfully sued the federal government over the illegal mismanagement of cackling Canada and Emperor geese. But upon losing the federal government immediately continued their prior management practices. These include a closed season for everyone except the Natives of the Yukon-Kuskokwim Delta who caused the problem in the first place. These people take the birds in the spring (breeding pairs), summer (eggs and flightless young and moulting adults), fall prior to migration. All of this harvest is illegal yet the federal government has entered into agreements allowing for the continued slaughter in the face of a lost lawsuit and in violation of migratory bird treaties!

The federal record in Alaska at least on marine mammals and migratory birds has been one of arrogance and lawlessness. Many people don't realize that no one, not even the courts, can force the federal government to enforce conservation laws.

Obviously, I am not enthusiastic about federal management of fish or game but it is a fact that they already play a major role in the management of the fish and game resource in Alaska.

While the Governor claims to have introduced a proposal to amend the Constitution because he opposes federal intervention in the management of fish and wildlife in fact his administration is actively working at this very moment to expand federal control of game in a racially biased manner.

The state administration is supporting a U.S./Canada treaty to manage the Porcupine caribou herd, our second largest, at this time. The treaty will give the federal government and Natives control of the herd.

The state is also supporting amendments to the U.S./Canada Migratory Bird Treaty to legalize presently illegal spring and summer destruction of waterfowl by Natives.

Ironically, the beneficiaries, Natives, are the major cause of the present depleted status of several species and they are making inroads into other species. For example last spring they killed 40 tons of whistling swans--5,000-8,000 birds. A species no one can legally hunt in Alaska.

One wonders if the Governor remembers that he took an oath to uphold the laws of Alaska for all citizens. Why hasn't the state enforced

its regulations against illegal take of waterfowl in selected portions of the state? A touch of racism by the Governor?

In the few days that have elapsed since your editorial appeared the picture has become quite clear. The Natives have finally revealed their plan for a racial solution to the problem---All Natives should be accorded first priority of use of fish and game---because of cultural needs. This utterly racist viewpoint was most recently put forth by the representatives of 23 communities in Southeast Alaska and placed in concrete when Rep. Wallis of Ft. Yukon put forth a proposed Constitutional Amendment to accomplish apartheid in Alaska. Their recent actions are consistent with the expressed desires of various Native groups during the 1970's, the 1980 debate on ANILCA, the 1982 referendum on subsistence and throughout the McDowell vs. State lawsuit, to mention a few of their activities.

My proposed resolution to the "subsistence" issue follows:

1. Abolish the term "subsistence" from the fish and game regulations as it is no longer pertinent.

2. Manage the fish and game resource so as to perpetuate it using seasons and bag limits, methods and means and time and area zoning. These basic tools provide sufficient flexibility to adequately provide for the complex needs and desires of Alaska's citizenry regardless of their geographic location or ethnic heritage.

3. The legislature should by resolution, and other political means, if necessary, urge the Governor to immediately challenge, in federal court, the offending portions of ANILCA. There is every likelihood that the congressionally mandated urban vs. rural classification of U.S. citizens violates the federal constitution.

4. Concurrent to 3 above, petition our Congressional Delegation to seek immediate amendment to ANILCA by removing the offending language. ANILCA has been amended on the average of once a year since enactment. I realize Senator Stevens opposes such an amendment but he also is responsible to the state.

5. The legislature should reject all resolutions aimed at amending the Constitution to institutionalize classes of citizens for the purpose of allocating fish and game resources.

I recommend that each legislator reread Article I, Sec. I of the Alaska Constitution and the Supreme Court decision, McDowell vs. State Supreme Court, file No. S-2732. Justice Moore comments on page 32---"This is an equal protection case, and an easy one at that." The equal protection section referred to states in part "all persons are...entitled to equal rights, opportunities, and protection under the law..."

While the case under discussion was decided short of invoking the equal protection clause subsequent decisions will necessarily involve Article I, Section I.

Is the legislature seriously contemplating amendments that would establish statewide preferences on a racial or urban vs. rural basis

when such action will only exacerbate the present situation? How will they craft an amendment that will not fly in the face of Article I and/or Article VIII of the State Constitution?

Is it the intent of the legislature to once again exhibit their most famous posture--supine--and leave it to the public to clean up the sorry messes (laws) foisted upon them as we have had to do so many times?

6. If the federal government moves to manage for subsistence uses on federal land sue at the first and every additional opportunity. A determined effort in the courts will hasten resolution of the issue.

7. Lastly, let us not hear a single legislator state "I'm voting for the resolution to amend the Constitution in order to let the voters decide." If any legislator can't do better than that--resign and go home now!

Robert A. Rausch
P.O. Box 32662
Juneau, Alaska 99803

789-3764

DONALD F.HOFF,JR.
2438 FIRST AVE.
KETCHIKAN,ALASKA 99901
(907)225-6376
March 10, 1990

SUBSISTENCE

This is a statement from the Tongass Tribe member, Donald F. Hoff,Jr. In order to speak on the important issue of subsistence youmust understand our history of my Tribe. The history that I will speak of, was research by my Eagle/Bear brother Richard Jackson.

Tongass Tribe is one of the 13 geographical divisions of the Tlingit Nation.

Ketchikan is the first town on the panhandle of Southeastern Alaska. It was first settled by the Tongass Tribe, traditionally known as the Taantakwan (the sea lion people), in the middle 1800's it was a properous village that flourished near the mouth of a creek. This creek was famous for its runs of hump-back salmon.

The creek and its immediate area were given to the Drifting Ashore House Group, a sub-division of the Gaanax a'di Clan of the Tongass Tribe, by a Sanya man (Cape fox people) in honor of the wife who had been from the Tongass Gaanax a'di Clan.

As migration of early pioneers to Alaska occurred, settlers increasingly attracted to the richness of the land, encroached on Tongass Land with total disregard to the Tongass Tribe. Natives were looked upon as less than human having little or no intellect.

Time went by and commercial businesses displaced the natives as land became more incresingly valuable to the town. Ultimately a central business district developed. This district completely surrounded the Tongass Tribe Village.

The Tongass Tribe has diminished in size due to the loss of a historical land base. With the loss of land the continuity of the social economy was forever interrupted.

The natives called the village "Kichxaan". Many transalations have been recorded by the Tribe's is "under the wings of a eagle". This name came because of a big rock in the creek that sprayed like wings when the creek roared with rain water. The name was changed to Ketchikan by the whites after they incorporated and seized most of the land.

According to TLINGIT GENEALOGY, NOTES AND INFORMATION (SHORTRIDGE,LOUIS 1915-1926) clan houses (HIT) of the Taanta-kwaan in Ketchikan on May 8,1916 include:

Raven Gaanaxa a'di Clan	Eagle Tolkweidei' Clan
(Raven) Yei'l Hit	(Ravine) Shaan'ax Hit
(Moose) Xaas Hit	(Bear) Xutz Hit
(Over the Istmus) X'agoon Hit	(Man who married the Brown Bear) Kaats' Hit
(Golden Eagle) Gidjook Hit	(Around the Eagle) Wandaa Hit
(Ground Squirrel or Marmot) S'aax Hit	

Today because of assimitlation and disconnection to oulturalheritage due to the lack of a land base the Tongass Tribe's Matrilineal Moietie have only one known house group apiece. The Gaanax a'di have only the Yie'l Hit and the Teikweidei have only the Kaats Hit house. Today the Tongass Tribe is only a breath away from extinction if there is not any attempts to restore some semblance of the social economy that once exsisted.

As of now the Tongass Tribe number approximately 300. They live for the most part in urban locations with a large concentration in the Ketchikan area.

Now here we are fighting for subsistence rights of my people and native people in Alaska. We are talking about "Inherent Rights!" the right to subsist as we did for 10,000 years and before.

I am part of the Tlingit Nation and proud of my Cultural Heritage. What right does the State of Alaska or the Federal Government or any one person have to decide whether I can subsist for traditional foods. Anyone is to blame, it has been the exploitation by rapists, capitalists opportunists. The laws are created for further exploitation of all our natural resources.

Prime examples, fish and wildlife game,abalone, sea-cucumber,herring roe, seaweed, shelfish and the list goes on and on. State of Alaska has over regulated.

An article written by Ketchikan Daily News, Friday,March 9,1990 on Subsistence: Native Preference Proposed. Rep.Kay Wallis,D-Fort Yukon, said that falls short of protecting the native culture. Rep.Wallis introduced a measure that would amend the State Constitution to limit subsistence rights to natives and rural residents. A vote againstthis amendment is disorimation againstthe Native People in Alaska. Another form of this Disorimation is the States stand that they don't recognize Indian Tribes in Alaska. I don't know what else to call it.

To be real frank, Alaska Federation of Natives that supports the rural defination amendment do not have the right to speak or represent me nor our Tribe because we live in a urban setting. We can't understand their logic. Ketchikan is a Village and our sea has been an unlimited resource for food and economic exchange for thousands of uninterrupted years until now. You take away our subsistence, you will certainly kill my people. You have rocked the "Gum-boot Boat!"

The imposition of State regulatory Subsistence laws on a people who heretofore have never been denied or denied anyone the inherent right to provide for their families. In a few basic words, that is called human rights. Human Rights do not exist if someone or body is a racist. To me the answer is sample, let people subsist. Respectfully submitted for the record.

Aan Kadax Tseen (my Indian name)
Gaanax a'di Clan
Yei'l Hit
Taantakwan Tribe

Donald F. Hoff, Jr.

RIC DAVIDGE
3501 ADMIRALTY BAY
ANCHORAGE, ALASKA 99515
349-7329H 563-1912W

SUBSISTENCE - FACT AND FICTION

Why should the State of Alaska amend its constitution, altering fundamental principles of the founding fathers of our state that all fish, wildlife and waters are held for the common use of Alaskans - that there will be no exclusive right of fishery - that the laws of the land will be uniformly applied - that its citizens will have equal rights and that there is a Constitutional right to due process?

Why should the State of Alaska amend its constitution to comply with a federal law, which most Alaskans objected to when passed by Congress, that applies only to federal lands - federal lands that have, as a matter of law, been under federal management since the acquisition of Alaska from Russia?.

Why should the State of Alaska amend its constitution and change the management of STATE lands to comply with a federal law that only applies to Federal lands?

As most of you know I served with the Department of Interior from 1980 to 1986 in a number of capacities. I was an Alaskan before I went to Washington, DC and, unlike some, I returned to Alaska.

While serving as the Assistant to the Director of the US Fish and Wildlife Service one of my responsibilities in 1986 was to Chair a Federal multi-agency task force charged with DRAFTING the Federal Subsistence Resource Management Program. Last month at the request of the Senate I testified before the Senate Resources Committee on that program and have attempted since my departure from the Federal Government (in 1986) to have this regulatory program released to the Alaska public for review and comment. Not because I believe it is the answer to the question of subsistence resource management but because I believe Alaskans have the right, under federal law, to review, comment and have those comments considered BEFORE that program or any other such program is put into place.

Why has our Congressional Delegation not insisted that the federal plan be released? Why have the so called "friends of Alaska" that serve in the Department of Interior not insisted that this program be released? Why have the Alaska Federation of Natives and the Native Village or Regional Corporations not insisted that this program be released? Why has the State

Legislature and our Governor not demanded that this program be released?

FACT - Title VIII of ANILCA only applies to federal lands.

FACT - Congress found that the State of Alaska was competent to manage the fish and game resources on federal lands - however such management is subject to Federal law, management cooperation and ultimate approval. Federal agencies manage the habitat.

FACT - If the State Fish and Game Boards made an allocation decision of fish and game resources on Federal lands that federal agencies did not agree with - it would not be approved. The Federal agencies hold the authority under federal law to approve or deny allocation decisions within federal boundaries.

FACT - Title VIII of ANILCA does not apply to State lands but an amendment of our State Constitution would.

FACT - Title VIII of ANILCA discriminates on the basis of residency.

FACT - A number of Constitutional lawyers including government Solicitors believe that Title VIII is unconstitutional. Why hasn't the State of Alaska challenged its application?

FACT - The Master Memorandum of Agreement on the Management of Fish and Game in Alaska signed by Secretary of Interior Watt and Governor Hammond is ignored by federal agencies. It is an Informal regulation that did not comply with federal or state administrative procedural laws. It is in all respects invalid.

FACT - Under federal law the subsistence preference is granted to rural communities who subsist on federal lands (not state or private lands) and this subsistence preference may be lost or regained based on the delineation of a community as "rural".

FACT - Title VIII of ANILCA and its legislative history provides no definition of "rural".

FACT - The only Federal definition of Rural to be found is the one used by the US Census Bureau. A community of 2,500 or less is classified as rural. Any community with a population above 2,500 is classified as urban.

FACT - The Subsistence preference granted by Title VIII is not a property right. The legislative history makes this very clear.

FACT - The Subsistence preference granted by Title VIII is not granted in perpetuity

FACT - The Subsistence preference granted by Title VIII is not granted to Native people but to persons who reside in rural communities.

FACT - The requirement under Title VIII of ANILCA and the Constitutional amendments being considered grant a preference. In order to implement that preference one must ensure that the allocation can be reasonably received by those granted the allocation. How can the State of Alaska or the Federal government ensure a subsistence PREFERENCE allocation of salmon (better than 90% of all the subsistence resources taken) to a small native village at the boarder of Alaska on the Yukon River when the commercial fishing industry will intercept those same runs of salmon in the open ocean?

FACT - A law suit challenging the allocation decisions of the State and/or the Federal agencies - that they do not adequately protect the subsistence preference of rural communities could radically impact Alaska's commercial fishing industry.

FACT - The Department of the Interior is not paying the State of Alaska the funds necessary for the State to manage subsistence resources on federal lands. Since passage of ANILCA in 1980 the federal government has only paid the state about $1 Million a year. The State expends more than $5 Million a year on the program.

FACT - The State Supreme Court decision does not apply to Federal lands. Title VIII of ANILCA is still in effect and subsistence preferences will be met on federal lands.

FACT - The assertion by some in Washington and in Juneau that it is impossible to manage Alaska's fish and game resources unless it is done by the State is inconsistent with the history of fish and game management in all other states. Alaska is one fifth the size of the contiguous states. That means that a grouping of states equals the land mass of Alaska. Each of these states manage their fish and game resources quite well and many states have federal areas within their boundaries which are under EXCLUSIVE FEDERAL JURISDICTION meaning the state has no legislative or regulatory authority within the federal boundary.

This management is accomplished through cooperative management agreements between states and federal agencies.

FACT - The trend in the lower 48 is that Federal Courts are reversing previous decisions granting special privileges to Indians off of "Indian lands".

FACT - ANCSA provided federal and state compensation to Alaska Natives for aboriginal rights to land and their resources for the purpose of settling such claims. This compensation took the form of cash and lands which were extended, received and accepted.

FACT - The problem Alaska is facing was created by, what our Supreme Court referred to as a "crude" attempt to solve a complex

allocation question, . . . was created by Congress - NOT BY THE STATE OF ALASKA.

FACT - Federal management of subsistence resources on federal lands is subject to federal law. The preference must be granted. The allocation must be based on sound wildlife management principles. Federal management of subsistence resources is subject to public review and comment.

FACT - The Fish and Wildlife Service must prepare an Environmental Impact Statement before it can implement a Subsistence Resource Management Program. This EIS is also subject to public review and comment.

FACT - Significant portions of federal lands are not open to subsistence hunting or fishing. The people in Glacier Bay National Park have just come to realize that.

I submit to you, as an Alaskan with some knowledge of federal agencies and subsistence law, that federal management of subsistence resources on federal lands will not significantly alter the allocation of fish and game resources as such allocations are already constrained by federal law.

I submit that the management of fish and game resources in the State will not significantly change, as federal and state agencies will enter into cooperative agreements regarding such resources to ensure proper management consistent with state and federal law.

I submit that the federal agencies will be more directly responsible for paying the costs of such management. A cost now unfairly placed on the state budget.

And I submit to you that such an action will isolate those in Washington DC and in Juneau that have personal agendas that are facilitated by conflict - be it racial or political.

Why should the State of Alaska amend its Constitution, one built on the lessons learned from the mistakes of other States, to comply with a federal law that many believe unconstitutional and that only applies to federal lands within which the state has little jurisdiction anyway?

I must conclude that the best solution is to let the federal agencies manage subsistence resources on federal lands, do not amend our State Constitution, and have the State join with private efforts - well underway - to challenge the constitutionality of Title VIII of ANILCA.

P. O. Box 1410
Petersburg, Alaska 99833

March 6,1990

Dear Representative Menard,

We are on the brink of losing the two most dominant issues over which the struggle for statehood was fought; the domination of our lives by the federal government, and the exclusive and privileged use of our fish and game resources.

The fraud the federal government has imposed upon us under terms of the Alaska National Interest Lands Conservation Act (ANILCA) must not go unchallenged. The "Subsistence" problem and its implications have created the single most divisive issue between Alaskans since statehood. We simply cannot afford any further institutionalization of racial government privilege.

In negotations for construction of the trans-Alaska pipeline the federal government, the state, the native community and the environmental interests agreed to terms of the Alaska Native Claims Settlement Act (ANCSA). This federal legislation provided that for the payment of nearly one billion dollars and the private ownership of forty million acres that "any aboriginal rights, if they ever existed, are hereby extinguished" All parties understood and accepted these terms.

The subsistence section of ANILCA is the attempt to regain those exclusive and privileged rights which were extinguished under ANCSA. The U.S. Circuit court, in 1980, ruled that "All claims by Alaska Natives against the United States, the State and other persons based on claims of aboriginal right, or based on statute or treaty relating to Native possession, were extinguished".

ANILCA further compounded its problems by including all persons residing in rural Alaska and by defining subsistence in terms which are far beyond that which is commonly used. A "means of support or livelihood". It then threatens to usurp management of our fish and game resources if we fail to comply with all of their demands!

The U. S. Congress deviated from the usual pattern of Indian settlement in drafting the provisions of ANCSA. In addition to the granting of financial aid and title to land, Congress established thirteen Regional Corporations and Village Corporations in a planned effort to bring the Alaskan Indians into the mainstream of moodern life both financially and culturally as rapidly and painlessly as possible. For some of the Corporations, that road has been filled with obstacles, but

some of them are prospering. Figures recently released by the U. S. Census Bureau show that the Tlingits of S. E. Alaska now have the highest annual family income of all American natives, and also exceed that of all American families by several hunderd dollars a year. By promoting subsistsence in a "Customary and Traditional manner", ANILCA contravenes this expressed intent of ANSCA.

ANILCA and our state constitution are not compatible. We must not abandon those principles we fought so hard and long for at the time of statehood by amending our constitution.

We can extricate ourselves from this untenable situation only by being positive in our goals and assertive and aggressive in pursuing them. We cannot please everyone, we must chart a course which is fair and equitable to all and protects the resource from abuse.

We must demand that our Congressional delegation immediately take steps which will lead to changes in the subsistence sections of ANILCA, at the same time our Legislature must amend the state subsistence statute based upon individual characteristics of need.

In its recent decision in which they declared the rural portion of the state subsistence statute to be unconstitutional, the Supreme Court took great pains to point the direction for us to follow when they said....

"a law providing for individual determination eligibility to engage in subsistence taking of fish and game could be sufficiently tailored to the states interest to be constitutional"

In summary:

It is my belief, based upon the history and provisions of our Constitution, ANCSA and ANILCA that:

Any alteration of Article VIII, Sections 3, 15 or 17 of our State Constitution will place Alaskas number two industry, commercial fishing, in jeopardy and could be detrimental to our game resources as well.

All aboriginal titles, including aboriginal hunting or fishing rights, were extinguished. The basis for hunting and fishing rights for Alaska Natives is presently by treaty or statute only.

As the supreme court observed, " There are a substantial number of Alaskan residents residing in areas designated as urban who have legitimate claims as subsistence users. Likewise, there are substantial numbers of Alaskans living in areas designated as rural who have no legitimate claim" They must all be treated equally.

The Federal Government erred in not recognizing that the Alaskan Natives forfeited any aboriginal rights they may have had under terms of ANCSA. This should be challenged in the highest court of the land, and our congressional delegation must begin immediately working toward a revisions of that flawed federal statute.

A law providing for subsistence based upon individual determination of need would be fair, equitable and could be molded to be in compliance with our constitution.

This has become such an emotional issue that many, either believe, or would like us to believe, that if they are not granted "subsistence rights" they are being denied a share of the resource. Fortunately, at the present time, the status of our fish and game resources, in general, are such that our liberal seasons and bag limits provide for the physical, spiritual and cultural needs of the preponderance of present day Alaskans. For those who need or want additional, Personal Use regulations are more than adequate.

Please do your utmost to correct this extremely serious problem in favor of all Alaskans and the fish and game resources of our beutiful and bountiful state.

Sincerely yours,

Loren Croxton

2-90 Conservation Utilize - Preservation 82/2

Concerning the Trapping and subsistance issue
First, wild animals do not belong to the state
Wild life, land, water and all resources belong
to the people. State ownership only exists under
Socialism, Communism, Monarchies, and
other Totalitarians. A Constitutional Republic
Article 4, Section 4, guarantees the unalienable
Rights of the people as expressed in the Declara-
tion of Independence, and secured by the blood
of patriots. Rights aren't based on race, color,
male, female, city or rural. All live with
unalienable Rights. No privileged nobility. No
one immune from greed, regardless of age, sex,
nationality or location. Which brings us to the only
purpose of government. A Constitutional Republic
was created to secure our unalienable God
given Rights. The Declaration of Independence
states this and the Revolutionary War fought to
~~secure~~ demand them. Individual Liberty, and Equality
to the wildlife, forests, and rivers was the
purpose of the Magna Carta. No longer, the King's
deer, the Kings fish or the Kings forest. This is
a new issue. If the people are to retain Liberty, they
must educate themselves with the mentioned
documents and The Federalist Papers, recogni-

(1)

by our U.S. Supreme Court as authority on the Constitution. Individual Rights to land, animals, fish and other resources have been usurped. Wastefully renewable resources based on ~~outdated~~ sustained yield is only common sense. Beetle infested timber on the Kenai Peninsula shows fallacy of preservation. A waste and a fire hazard. Much of this timber is rotten. Nothing lives forever. Conservation Utilizes. Preservation wastes. To utilize any resource, directly or indirectly to support oneself is a basic Right.

Seymour Mills
262-9289
Sterling, Alaska

UNITEDFISHERMENOFALASKA

TESTIMONYONSUBSISTENCE

March10,1990

My name is Cheryl Sutton and I will be speaking on behalf of the United Fishermen of Alaska as their Subsistence Committee Chair.

Commercial fishermen, and many other Alaskans, stand to suffer great injury if the subsistence issue is not settled in a manner conducive to sound fish and game management practices and non-disruptive allocative priorities. UFA does not support the concept of attempting to settle this issue by means of a constitutional amendment.

UFA has produced an issue paper on subsistence. I would like to briefly state our position and make other comments.

UFA supports a subsistence-based use of fish and game populations in Alaska, but believes that such uses must be bound at historical levels.

The following areas need to be addressed and answers to the questions sought out by the legislature.

- The federal government's jurisdiction over fish and game populations both on federal lands and state lands and waters needs to be clearly defined. For example, does the state or the federal government have jurisdiction over anadromous fish harvested in state waters but spawning within federal areas?

- The consequences or benefits of a "federal" takeover for subsistence management need to be delineated for the public. The public should not be forced to stand in fear of a concept they do not understand.

- The legislature must consider that "rural" will still not be defined in the adoption of the proposed constitutional amendments. There will be no federal definition for rural.

- How will the state handle the Ninth Circuit's ruling relative to the Kenaitzes and its subsequent classification of the Kenai area as rural?

- More clear policy guidance must be provided for the Boards of Fisheries and Game and other regulatory agencies creating subsistence regulations.

- The state must consider the economic and social implications of further reducing the cash economies of coastal Alaska communities through making them more subsistence dependent. The very people these constitutional amendments are designed to help may be harmed more than helped.

- The *commercial* sale of subsistence harvests is increasing. The potential for major growth of subsistence harvests being sold under "customary trade and barter" is very likely. This problem must be closely examined and appropriate safeguards taken to prevent its occurrence.

- The definition of subsistence "use" and subsistence "user" needs to be clarified for the public as it relates to the implementation of Title VIII, Section 804 of ANILCA which affords priority.

- An enforceable and mutually protective definition for priority as it relates to competing fishery uses must be developed.

UFA does not believe that a constitutional amendment is the solution to this problem. We believe the solution is many faceted; however, until answers are provided to the questions we have brought forward, an equitable solution will not be found. We have offered our assistance to work with the administration and legislature, as well as other affected groups. We continue to offer that assistance. The solution to the subsistence issue will not be found unless all parties work together to formulate the best plan possible. This plan should include changes on both the state and federal levels if we are to see a long-term solution.

Thank you for the opportunity to testify. I would be glad to FAX a copy of this testimony and the UFA issue paper if the committee would so desire.

Alaska House Of Representatives

Resource Committee

Subsistence Hearings

March 10, 1990

Dear Representatives

My name is Rick Bierman, I live in Juneau and I am a subsistence user of fish and game. My family and I own land on Shelter Island and we depend on local deer populations as a major source of food. If subsistence regulations are activated locally, people from Haines and Skagway will have priority use of deer populations on Shelter and Douglas Islands, and the local Admiralty area---even if these people are not subsistence users and have never hunted in the Juneau area before.

In 1989, The Alaska Supreme Court ruled rural priority unconstitutional. The court ruling states "One purpose of the 1986 act (like the 1978 act) is to ensure that those Alaskans who need to engage in subsistence hunting and fishing in order to provide for their basic necessities are able to do so." It also states that "many people living in urban areas have legitimate claims as subsistence users, while many people living in rural areas have no legitimate claims." This ruling upholds the right of the State to regulate subsistence but declares that the urban rural distinction is to "crude" a test to determine the actual needs of the people of Alaska.

Like any simple approach to a complicated problem, rural priority sounds much better then it works. To make matters worse, the original legislation has been altered by so many governing bodies, that it, all to often, achieves the opposite effect that it was intended to. A constitutional amendment will etch this injustice in stone.

Protecting the rights of people who depend on wild resources to maintain their existence, is a proper function of government. However, protection must be applied to the people who have legitimate claims, not handed out or withheld solely on the basis of where one chooses to reside. Although, as Governor Cowper pointed out, a more equitable solution will be costly; democracy was not designed to be efficient, it was designed to protect individual rights, and justice has never come cheaply.

It is my opinion that the State's original 1978 statute stressing local priority came closest to the ideal of protecting the individual rights of Alaskans who depend on wild resources. It is the federal government with the enactment of ANILCA, that imposed rural priority over local priority---and it is the federal law not the constitution of Alaska that needs to change; anything short of this, will be a cop-out!

Sincerely

Rick Bierman and family

P.O. Box 120166

Auke Bay, Alaska 99821

SUBSISTENCE TIME TABLE

1959 Alaska becomes a state and for the first time assumes management authority of her fish and game resources. The new constitution abolishes fish traps and specifies that fish and game shall be managed on a sustained yield basis for the common good.

1968 The discovery of oil at Prudhoe Bay and subsequent need for a pipeline to the ice free port of Valdez forces the resolution of aboriginal land claims.

1971 Alaska Native Claims Settlement Act brings wealth and technology to the bush. This Act extinguishes aboriginal claims to fish and game.

1972 Due to circumstance unrelated to Alaska, Congress passes The Marine Mammals Protection Act, seizing management authority of ten species of marine mammals from states and establishing federal Native subsistence policy. Alaska is forced to abandon her extensive conservation programs and the federal government refuses to fund any replacement programs.

Fr. Rick Bierman

1974 Construction of the Trans-Alaska Pipeline brings wealth and population growth to urban centers. Increased access to transportation technology fuels tension between urban and rural Alaskans competing for fish and game.

1978 Seeing the need to protect subsistence users and fearing federal intervention, Alaska's legislature establishes two tiered subsistence criteria when stocks are low: 1) Subsistence gains priority over other uses 2) when stocks are too low for all subsistence uses, priority is based on A. customary and direct dependence on the stock as a mainstay of livelihood, B. local residency, C. availability of alternate resources.

1980 Alaska National Interest Lands Conservation Act designates over one hundred million acres of land as federal preserves and sets "rural" as a requirement for subsistence use on all federal land. The Alaska boards of fish and game adopt rural priority regulations to comply with federal standards and maintain control on federal lands.

1982 Voters reject initiative to repeal rural priority At this time urban residents were still eligible for subsistence as first tier users.

1985 The Alaska Supreme Court decides two cases, one declaring rural priority regulations inconsistent with the 1978 statute and the other forcing the state to establish subsistence regulations even when stocks are plentiful. A federal court rules that urban is any community with a population larger than 2,500 people, and declares everything else rural for subsistence purposes.

1986 To comply with the Court decosion the Alaska Legislature re-writes laws governing subsistence establishing rural priority for first and second tier users.

1989 The Alaska Supreme Court rules rural priority unconstitutional. The court ruling states "One purpose of the 1986 act (like the 1978 act) is to ensure that those Alaskans who need to engage in subsistence hunting and fishing in order to provide for their basic necessities are able to do so." It also states that "many people living in urban areas have legitimate claims as subsistence users, while many people living in rural areas have no legitimate claims."

This ruling upholds the right of the State to regulate subsistence but declares that the urban rural distinction is to crude a test to determine the actual needs of the people of Alaska.

To The Subcomittee on Subsistence Hunting

#1. Webster Dictionary; 2a Means of subsiting. b:the mimimum (asof food and shelter)necessary to support life. Our game laws takes care of this in (that nothing in these laws will prevent a person from taking game for life or property). Therfore the subsistence question is mute. However.

I harvested my first Caribou, (for meat) in 1966. I am a senior citizen on a social security pension. I live in a Rural area within five miles of Palmer, and I have a P.O. Box.

I know a person that lives at Glennallen, he gross,es over $100,000 per year, yet he is eligible for subbsistence hunting, I am not.

He drives to Eureka, 68 miles away to hunt Caribou.
I would drive to Sheep Mt.,63 miles away to hunt Caribou.

HE CAN -----I CAN'T, WHY???

I feel that I am as much in need and as deserving as 75% of those that are allowed to do so, Be they Native, Lower 48 transplants, or Intercontinental Aliens.

It is my heart felt belief that the seniors that helped to build this Great State should be considered for subsistence rights also.

The three score and ten that I am allotted will be up in eight years, and if my strength holds out I will be able to hunt for that many Caribou. and they will be used, Meat Hide and Antlers.

If Subsistence hunting is to be for Native only I belive that it should be legislated under sever penalty that the only way to take game is by Dead fall, Home made Bow&Arrow, and/or spears hand held or thrown by hand. Transportation to be by Dog Team/ foot or un mechanical boat.

Thank You

Bob Bickel
PO Box 129
Palmer, Ak. 99645

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
committee name

committee on SUBSISTENCE, dated MARCH 1, 1990.
bill/subject

I STRONGLY OPPOSE THE GOVERNOR'S DECISION TO ASK FOR A CONSTITUTIONAL AMENDMENT TO PROVIDE A SUBSISTENCE PRIORITY FOR RURAL RESIDENTS.

THE FRAMERS OF THE CONSTITUTION PUT A LOT OF THOUGHT AND EFFORT INTO THE ORIGINAL LANGUAGE, STRESSING GOOD MANAGEMENT, PERPETUATING RESOURCES, AND PROVIDING EQUAL OPPORTUNITY FOR USE. THEIR WORK HAS BEEN FRAMED BY CONSTITUTIONAL SCHOLARS, AND RATIFIED BY CONGRESS & THE PEOPLE OF THE STATE. NOW IT IS THREATENED BY SPECIAL INTEREST POLITICS. THE GOVERNOR WON'T BE AROUND TO TAKE THE POLITICAL HEAT, BUT YOU FOLKS WILL.

THE MOTIVATION FOR THE 1978 STATE SUBSISTENCE LAW WAS MISREPRESENTED BY BEHNKE. IT RESTED ON 2 ARGUMENTS - BOTH SPECIOUS: (1) IT WILL SAVE ALASKA NATIVES' CULTURES; (2) IT WOULD FORESTALL A FEDERAL LAW ON

Signed: SUBSISTENCE. NO LAW CAN SAVE A CULTURE, ONLY THE
Testifier PARTICIPANTS IN IT CAN. THE STATE LAW WAS USED BY JON MITCHELL, NORM COHEN, ET AL TO GET A FEDERAL LAW.

~~RICHARD HIGHAM~~ - SELF
Representing (Optional)

655 BUSH BLVD, FAIRBANKS AK 99709
Address

907-455-6151
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on Subsistence, dated March 10, 1990.
bill/subject

I oppose allowing subsistence use of Alaska's resources to only Native People. I believe that writing a law that allows or denies anything along racial lines is unfair, will promote racial discord, and will ultimately be struck down by the courts.

Subsistence is confusing. The only way I believe that the problem of subsistence can be solved is to eliminate subsistence. This may mean that Alaska will have to slug it out with the federal government to findout who will manage Alaska's resources.

The stated needs of Alaska's native population for fish and wildlife for food can and should be satisfied during posted seasons. Seasons and bag limits are liberal enough now to provide for all the needs of any family.

Signed: _____ (Jim Wilkins)
Testifier

Representing myself
Representing (Optional)

PO Box 871641 Wasilla, Alaska 99687
Address

376-2324
Phone No.

I

Testimony of Noel Woods
The Matanuska Valley Sportsmen support The Alaska Outdoor Counc. on this issue.

THERE ARE OTHER OPTION'S THAN A CONSTITUTIONAL ADMENDMENT TO ALLOW RURAL PREFERENCE.

(a) CHANGE FISH AND GAME HARVEST REGULATION'S TO ACCOMODATE RURAL RESIDENT HARVEST. (1) THIS HAS BEEN DONE EVER SINCE STATEHOOD BY DIVIDING THE STATE INTO MANAGEMENT UNITS AND SETTING SEASON'S AND LIMITS THAT MAY BE VERY DIFFERENT FOR EACH UNIT. IT HAS BEEN CUSTOMARY THAT THE MORE REMOTE AND LESS POPULATED UNITS HAVE THE MOST LIBERAL HARVEST AND LONGEST SEASONS.

(2) BY PROPER MANAGEMENT OF HABITAT AND PREDATORS WITH CONCERN FOR MAXIMIM BENEFIT OF PEOPLE (ARTICLE 8, SECTION 2, ALASKA STATE CONSTITUTION) WE HAVE BEEN SHOWN BY SWEDEN AND OTHER COUNTRY'S THAT HARVEST FOR USE BY PEOPLE AS FOOD (SUBSISTENCE) CAN BE INCREASED DRAMATICLY BY MANAGEMENT OF FORESTS AND OTHER HABITAT. THIS ONLY REQUIRES THAT KNOWLEDGE AND CO-OPERATION BE SUBSTITUTED FOR STUPIDITY AND ARROGANCE - - AN APPARANTLY DIFFICULT TRANSITION.

(b) THE FEDERAL GOVERNMENT IS INSISTING ON SUBSISTENCE PRIORITY OR THEY WILL TAKE OVER OUR FISH AND GAME ON FEDERAL LANDS. THIS MAY INTEREST OTHER WESTERN STATES WITH LARGE AREAS OF FEDERAL OWNERSHIP. PERHAPS THE FEDS CAN COME UP WITH A MANAGEMENT PLAN THAT COMES WITHIN THE FEDERAL LAWS AGAINST ARBITRARY CLASSIFICATION OR DISCRIMINATION. SINCE THEY MUST HAVE SOME IDEA OF WHAT THESE REGULATIONS WOULD BE - PERHAPS A CONSULTATION WOULD BE IN ORDER.

I FAIL TO SEE HOW ONE CAN RECONCIL THIS PROPOSED ADMENDMENT WITH THE DECLARATION OF RIGHTS OF THE CONSTITUTION OF THE STATE OF ALASKA ARTICLE I, SECTION I, I QUOTE " THAT ALL PERSONS ARE EQUAL AND ENTITLED TO EQUAL REGHTS , OPPORTUNITIES , AND PROTECTION UNDER THE LAW. "

AND THE UNITED STATES CONSTITUTION IS QUITE CLEAR ON THIS WITH ITS FOURTEENTH ADMENDMENT WHICH READS IN PART " NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH - - SHALL DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS. "

THE ORIGINAL INTENT HAS EXPANDED BY PRACTICE INTO A GENERAL GUARANTEE AGAINST ARBITRARY CLASSIFICATION AND OTHER FORMS OF DISCRIMINATION. ALSO IT IS HELD AS CONTAINED WITHIN "DUE PROCESS" OF LAW AND THEREFORE BINDING UPON THE FEDERAL GEVERNMENT AS WELL.

SO NOW LETS HAVE THE ELECTED REPRESENTATIVES - BOTH FEDERAL AND STATE - EXPLAIN EXACTLY HOW THIS PROPOSED ADMENDMENT CONFORMS TO BOTH CONSTITUTIONS ALASKA'S AND UNITED STATES.

I HAVE APROBLEM WITH THOSE WHO PROPOSE LAWS WITHOUT INCLUDEING THE EXACT DEFINATION OF THE WORDS THEY ARE INCLUDEING IN THE PROPOSAL.

IN ADDITION TO THE LACK OF DEFINATION OF SUBSISTENCE, A DEFINATION OF RURAL RESIDENT - PLEASE-

WILL THIS PROPOSED ADMENDMENT RETURN TO THE SILLY RULES THAT EXISTED BEFORE MCDOWELL vs ALASKA WHEREIN A BANKING OFFICER IN GLENALLEN WAS ENTITLED TO SUBSISTENCE HUNT AND FISH BUT AN OUT OF WORK, POVERTY LEVEL RESIDENT OF SUTTON WAS NOT ENTITLED.

ANOTHER DEFINITION - PLEASE - THIS TIME A PHRASE, CUSTOMARY AND TRADITIONAL USE, IF MY FATHER, WHO WAS A RESIDENT OF ALASKA, FED HIS FAMILY WITH THE NATURAL RESOURCES OF THE TERRITORY BY HUNTING AND FISHING AND I (HIS SON) MARRIED AND FED MY FAMILY WITH MY EXPERTISE AT HUNTING AND FISHING AND NOW MY SON - MARRIED WITH CHILDREN - FEEDS HES FAMILY BY HUNTING AND FISHING, AND WE ARE ALL RESIDENTS OF ALASKA, ENTITLED TO EQUAL OPPORTUNITIES. ARE WE CUSTOMARY OR TRADITIONAL USERS ?

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: RYLE AND MARILYN RADKE
TITLE:
ADDRESS: 2136 AIRPORT WAY, SUITE 1
CITY: FAIRBANKS ZIP: 99701
PHONE: 452-1250
BILL NO: HJR 88
SUBJECT: SUBSISTENCE USES OF FISH & WILDLIFE
MESSAGE: WE ARE OPPOSED TO CHANGE IN THE STATE CONSTITUTION. WE FEEL THAT FISH AND WILDLIFE RESOURCES SHOULD BE MANAGED FOR THE COMMON USE. STATE CONSTITUTION CURRENTLY GIVES EQUAL OPPORTUNITY TO ALL RESIDENTS.

POMID: 07105222
DATE: 03/10/90
TIME: 10:52:22
LIONAME: FAIRBANKS LIO

COPIES:	REPRESENTATIVES	REPRESENTATIVES	SENATORS
	BARNES	BOUCHER	ADAMS
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	COLLINS	COTTEN	COGHILL
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	DONLEY	ELLIS	ELIASON
	FINKELSTEIN	FOSTER	FAHRENKAMP
	FURNACE	GOLL	FAIKS
	GRUENBERG	GRUSSENDORF	FISCHER
	HANLEY	HOFFMAN	FRANK
	HUDSON	JACKO	HALFORD
	KOPONEN	KUBINA	JONES
	LARSON	LEMAN	KELLY
	MACLEAN	MARTIN	KERTTULA
	MENARD	MILLER	PEARCE
	NAVARRE	PETTYJOHN	POURCHOT
	PHILL[illegible]	RIEGER	RODEY
	SHARP	SHULTZ	STURGULEWSKI
	SWA[illegible]AMMER	TAYLOR	SZYMANSKI
	ULM[illegible]	WALLIS	UEHLING
	ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: RICK SCHIKORA
TITLE:
ADDRESS: 1416 GILLA[illegible]AY
CITY: FAIRBANKS ZIP: 99701
PHONE: 456-1566
BILL NO:
SUBJECT: SUBSISTANCE
MESSAGE: PLEASE DO NOT SUPPORT AMENDING THE STATE CONSTITUTION TO GIVE A RURA PREFERANCE TO SUBSISTANCE. THE STATE MUST GET SOME BACKBONE AND FIGHT THE FED' ANILCA MUST BE CHANGED.

POMID: 07114620
DATE: 03/10/90
TIME: 11:46:20
LIONAME: FAIRBANKS LIO

COPIES:	REPRESENTATIVES	SENATORS
	SHULTZ	FAHRENKAMP
	BOYER	FRANK
	DAVIS, M.	COGHILL
	KOP[illegible]EN	
	MI[illegible]ER	
	SHARP	
	MENARD	
	JACKO	
	FOSTER	
	NAVARRE	
	FURNACE	
	HUDSON	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JIM WEIDNER
TITLE:
ADDRESS: 5479 CHENA HOT SPRINGS RD.
CITY: FAIRBANKS ZIP: 99712
PHONE: 488-6366
BILL NO: HJR 13
SUBJECT: CONST. AMENDMENT: EDUCATION ENDOWMENT
MESSAGE: CAN SOMEONE EXPLAIN TO ME HOW WE CAN SPEND 50 PERCENT OF THE EARNINGS PERMANENT FUND FOR INFLATION PROOFING, 10 PERCENT FOR DIVIDENDS, AND 40 PERCENT FOR THE EDUCATION ENDOWMENT AND NOT HARM THE INFLATION PROOFING OR THE DIVIDEND PROGRAM. PLEASE DROP ME A LETTER BY NEXT SATURDAY, MARCH 17, 1990.

POMID: 07111758
DATE: 03/10/90
TIME: 11:17:58
LIONAME: FAIRBANKS LIO

COPIES:

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FURNACE	GOLL	FAIKS
GRUENBERG	GRUSSENDORF	FISCHER
HANLEY	HOFFMAN	FRANK
HUDSON	JACKO	HALFORD
KOPGNEN	KUBINA	JONES
LARSON	LEMAN	KELLY
MACLEAN	MARTIN	KERTTULA
MENARD	MILLER	PEARCE
NAVARRE	PETTYJOHN	POURCHOT
PHILLIPS	RIEGER	RODEY
SHARP	SHULTZ	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: TERRY MIELKE
TITLE:
ADDRESS: POB 870988
CITY: WASILL ZIP: 99687
PHONE: 376-1321
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & HJR 88, HJR 90: I AM STRONGLY OPPOSED TO ANY CONSTITUTIONAL AMENDMENT CALLING FOR RURAL SUBSISTENCE PRIORITY.

POMID: 14133845
DATE: 03/10/90
TIME: 13:38:45
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	SENATORS
LARSON	KERTTULA
MENARD	SZYMANSKI
JACKO	FAHRENKAMP
FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: MARTY RINIO
TITLE:
ADDRESS: P.O. BOX 83
CITY: ESTER ZIP: 99725
PHONE: 479-6950
BILL NO: HJR 88
SUBJECT: SUBSISTENCE USES OF FISH & WILDLIFE
MESSAGE: DON'T SELL US OUT LIKE GOVERNOR COWPER AND FURTHER DIVIDE THE PEOPLE OF ALASKA.

POMID: 0715004_
DATE: 03/10/90
TIME: 15:00:41
LIONAME: FAIRBANKS LIO

COPIES:	REPRESENTATIVES	SENATORS
	BOYER	FAHRENKAMP
	DAVIS, M.	FRANK
	KOPONEN	COGHILL
	MILLER	
	SHARP	
	MENARD	
	JACKO	
	FOSTER	
	NAVARRE	
	FURNACE	
	HUDSON	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: STEVE STRUBE
TITLE:
ADDRESS: POB 521155
CITY: BIG LAKE ZIP: 99652
PHONE: 892-7760
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I STRONGLY OPPOSE THESE RESOLUTIONS AND IT IS MY HOPE THAT REP MENARD WILL NOT SUGGEST PASSAGE OF THESE OR ANY RESOLUTIONS THAT MAKE DISCRIMINATION CONSTITUTIONAL. I AM RELYING ON YOU, CURT, TO TABLE THIS. THIS IS NOT THE PROPER WAY TO SOLVE THE SUBSISTENCE PROBLEM.

POMID: 14144408
DATE: 03/10/90
TIME: 14:44:08
LIONAME: MAT-SU LIO

COPIES:	REPRESENTATIVES	SENATORS
	LARSON	KERTTULA
	MENARD	SZYMANSKI
	JACKO	FAHRENKAMP
	FOSTER	ELIASON
	NAVARRE	FRANK
	FURNACE	HALFORD
	SHARP	STURGULEWSKY
	HUDSON	ZHAROFF
	DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JIM PAGE
TITLE:
ADDRESS: POB 872573
CITY: WASILLA ZIP: 99687
PHONE: 376-7721
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I SUPPORT EQUAL RIGHTS FOR ALL ALASKANS. I OPPOSE ANY CONSTITUTIONAL AMENDMENT WHICH PROVIDES SPECIAL PRIVLIDGE TO ANY GROUP.

POMID: 14145207
DATE: 03/10/90
TIME: 14:52:07
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	SENATORS
LARSON	KERTTULA
MENARD	SZYMANSKI
JACKO	
FOSTER	
NAVARRE	
FURNACE	
SHARP	
HUDSON	
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JIM PAGE
TITLE:
ADDRESS: POB 872573
CITY: WASILLA ZIP: 99687
PHONE: 376-7721
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & HJR 88 & HJR 90: I OPPOSE ALL RESOLUTIONS TO THE SUBSISTENCE ISSU WE'RE CIRCUMVENTING THE MCDOWELL DECISION OF 1989 IN WHICH SUBSISTENCE W RULED UNCONSTITUTIONAL. WHY DON'T WE FACE THE MUSIC AND WORK FROM THE SUPREME COURT DECISION. MANAGE ALL RESOURCES FOR THE BENEFIT OF ALL ALASKANS! EVERYONE WILL WIN INSTEAD OF BEING LOSERS.

POMID: 14145641
DATE: 03/10/90
TIME: 14:56:41
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	SENATORS
LARSON	KERTTULA
MENARD	SZYMANSKI
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FOSTER	
NAVARRE	
FURNACE	
SHARP	
HUDSON	
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JACK DIDRICKSON
TITLE:
ADDRESS: POB 712
CITY: PALMER ZIP: 99645
PHONE: 745-3496
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I OPPOSE ALL PROPOSALS TO TO AMEND THE CONSTITUTION OF THE STATE OF ALASKA. THERE IS NOT ANYTHING INHERENTLY WRONG WITH THE CONCEPT OF SUBSISTENCE. THE ERROR IS IN ATTEMPTING TO LIMIT THE USERS. EVERY PERSON IN THE STATE OF ALASKA HAS THE RIGHT TO USE ITS RESOURCES WITHIN STATE REGULATIONS.

POMID: 14150230
DATE: 03/10/90
TIME: 15:02:30
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	REPRESENTATIVES	SENATORS
MENARD	JACKO	FAHRENKAMP
FOSTER	NAVARRE	KERTTULA
FURNACE	GOLL	ELIASON
GRUENBERG	DAVIS, M.	FRANK
ELLIS	MILLER	HALFORD
MARTIN	BOYER	STURGULEWSKI
DAVIS, C.	BOUCHER	ZHAROFF
MACLEAN	DONLEY	RODEY
HANLEY	ZAWACKI	FAIKS
FINKELSTEIN	PETTYJOHN	PEARCE
KUBINA	LARSON	SZYMANSKI
GRUSSENDORF	HUDSON	POURCHOT
LEMAN	HOFFMAN	ADAMS
SWACKHAMMER	WALLIS	KELLY
KOPONEN	ULMER	UEHLING
BROWN	SHULTZ	FISCHER
RIEGER	PHILLIPS	DUNCAN
BARNES		JONES

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: LINDA M SHUE
TITLE:
ADDRESS: HC 02 BX 7636
CITY: PALMER ZIP: 99645
PHONE: 745-4911
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & HJR 88 HJR 90: I SUPPORT EQUAL RIGHTS FOR ALL ALASKANS. I OPPOSE ANY CONSTITUTIONAL AMENDMENT WHICH PROVIDES SPECIAL PRIVLIDGE TO ANY GROUP. THE STATE BELONGS TO ALL OF US AND WE ALL NEED TO BE TREATED AS EQUALS.

POMID: 14151611
DATE: 03/10/90
TIME: 15:16:11
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	SENATORS
LARSON	KERTTULA
MENARD	SZYMANSKI
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BOUCHER	UEHLING
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FOSTER	FISCHER
NAVARRE	FRANK
FURNACE	PEARCE
SHARP	ZHAROFF
HUDSON	FAHRENKAMP
DAVIS, M.	ELIASON
GOLL	HALFORD
GRUENBERG	STURGULEWSKI
ELLIS	RODEY
MILLER	FAIKS
MARTIN	POURCHOT

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: ROBERT C MIELKE
TITLE:
ADDRESS: HC 01 BOX 6020
CITY: PALMER ZIP: 99645
PHONE: 745-3119
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: ALL ALASKANS ARE ENTITLED TO THE SAME RIGHTS. THESE BILLS WOULD ESTABLISH AN ELITE GROUP BASED ON LOCATION AND ETHNIC ORIGIN. SUBSISTENCE SHOULD BE REDEFINED. IF IT IS TO BE TRADITIONAL, SO SHOULD METHODS OF GATHERING GAME BE TRADITIONAL. REMOVE ALL SUBSISTENCE FROM ALASKAN LAWS.

POMID: 14155927
DATE: 03/10/90
TIME: 15:59:27
LIONAME: MAT-SU LIO

COPIES:

REPRESENTATIVES	SENATORS
LARSON	KERTTULA
MENARD	SZYMANSKI
JACKO	FAHRENKAMP
FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	RODEY
GOLL	FAIKS
GRUENBERG	PEARCE
ELLIS	
MILLER	
MARTIN	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: ROBERT D MIELKE
TITLE:
ADDRESS: POB 870988
CITY: WASILLA ZIP: 99687
PHONE: 376-1321
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I AM STRONGLY OPPOSED TO ANY CONSTITUTIONAL AMENDMENT ALLOWING SUBSISTENCE PRIORITY FOR ANY GROUP. THE STATE SHOULD SUE THE FEDERAL GOVERNMENT IF IT ATTEMPTS TO TAKE OVER FISH AND GAME MANAGEMENT. DO NOT DIVIDE THE POPULATION INTO CLASSES OF CITIZENS.

POMID: 14160512
DATE: 03/10/90
TIME: 16:05:12
LIONAME: MAT-SU LIO

COPIES:

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JACKO	FAHRENKAMP
FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	
GOLL	
GRUENBERG	
ELLIS	
MILLER	
MARTIN	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: RONALD D. GIRARD
TITLE:
ADDRESS: 4412 E 7TH STREET
CITY: ANCHORAGE, AK ZIP: 99508
PHONE: 337-2185
BILL NO: HJR 74
SUBJECT: SUBSISTENCE
MESSAGE: I AM FOR EQUAL USE OF RENEWABLE RESOURCES FOR ALL ALASKANS. ALL ALASKANS SHOULD BE EQUAL. NO PRIORITY GROUPS SHOULD BE FAVORED OVER OTHERS. I AM AGAINST HOUSE RESOLUTIONS PROPOSING CHANGES TO THE STATE CONSTITUTION.
/JM

POMID: 03125704
DATE: 03/12/90
TIME: 12:57:04
LIONAME: ANCHORAGE LIO

COPIES:

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DONLEY	ELLIS	ELIASON
FINKELSTEIN	FOSTER	FAHRENKAMP
FURNACE	GOLL	FAIKS
GRUENBERG	GRUSSENDORF	FISCHER
HANLEY	HOFFMAN	FRANK
HUDSON	JACKO	HALFORD
KOPONEN	KUBINA	JONES
LARSON	LEMAN	KELLY
MACLEAN	MARTIN	KERTTULA
MENARD	MILLER	PEARCE
NAVARRE	PETTYJOHN	POURCHOT
PHILLIPS	RIEGER	RODEY
SHARP	SHULTZ	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: PHILIP J. DEMBROSKI
TITLE:
ADDRESS: 733 LORI DRIVE
CITY: ANCHORAGE, AK ZIP: 99504
PHONE: 333-1058
BILL NO: HJR 74
SUBJECT: SUBSISTENCE
MESSAGE: I STRONGLY OPPOSE HOUSE JOINT RESOUTIONS 74, 88 AND 90. I FEEL THAT THE NATURAL RESOURCES BELONG TO AND SHOULD BE SHARED EQUALLY BY ALL ALASKANS.
/JM

POMID: 03130658
DATE: 03/12/90
TIME: 13:06:58
LIONAME: ANCHORAGE LIO

COPIES:

REPRESENTATIVES	REPRESENTATIVES	SENATORS
BARNES	BOUCHER	ADAMS
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FINKELSTEIN	FOSTER	FAHRENKAMP
FURNACE	GOLL	FAIKS
GRUENBERG	GRUSSENDORF	FISCHER
HANLEY	HOFFMAN	FRANK
HUDSON	JACKO	HALFORD
KOPONEN	KUBINA	JONES
LARSON	LEMAN	KELLY
MACLEAN	MARTIN	KERTTULA
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PHILLIPS	RIEGER	RODEY
SHARP	SHULTZ	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: KAREN BREWSTER
TITLE:
ADDRESS: BOX 1153
CITY: BARROW ZIP: 99723
PHONE: 852-5052
BILL NO:
SUBJECT: SUBSISTENCE
MESSAGE: PLEASE SUPPORT AMENDING THE ALASKA CONSTITUTION TO AUTHORIZE A SUBSISTENCE PRIORITY FOR RURAL RESIDENTS. HJR 88/SJR 78 BEST PROTECTS RURAL SUBSISTENCE LIFESTYLES AND CULTURES. ETHNICITY AND INCOME LEVEL SHOULD NOT BE USED FOR SUBSISTENCE QUALIFICATION. ONCE STATE SUBSISTENCE LAW COMPLIES WITH ANILCA, THEN WILL BE THE TIME TO ARGUE SPECIFIC DEFINITIONS.

POMID: 04132607
DATE: 03/12/90
TIME: 13:26:07
LIONAME: BARROW INFO OFFICE

COPIES:

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MACLEAN	ADAMS
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JACKO	KERTTULA
FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: HAROLD AND NADYNE DRAPER
TITLE:
ADDRESS: 2820 RIVERVIEW DR.
CITY: FAIRBANKS ZIP: 99709
PHONE: 474-9612
BILL NO:
SUBJECT:
MESSAGE: WE STRONGLY OPPOSE THE GOVERNOR'S SUGGESTION OF A CONSTITUTIONAL AMENDMENT AS A WAY TO CORRECT THE WRONG OF THE PRESENT SUBSISTENCE BILL.

POMID: 07133920
DATE: 03/12/90
TIME: 13:39:20
LIONAME: FAIRBANKS LIO

COPIES:

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FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: ADAM POLNASZEK
TITLE:
ADDRESS: 924 GILLIAM
CITY: FAIRBANKS ZIP: 99701
PHONE: 452-2834
BILL NO:
SUBJECT: SUBSISTENCE
MESSAGE: I REQUEST YOUR SUPPORT IN VOTING AGAINST THE SUBSISTENCE BILL. ALL ALASKA SHOULD BE TREATED EQUALLY.

POMID: 07161926
DATE: 03/12/90
TIME: 16:19:26
LIONAME: FAIRBANKS LIO

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	DONLEY	ELLIS	ELIASON
	FINKELSTEIN	FOSTER	FAHRENKAMP
	FURNACE	GOLL	FAIKS
	GRUENBERG	GRUSSENDORF	FISCHER
	HANLEY	HOFFMAN	FRANK
	HUDSON	JACKO	HALFORD
	KOPONEN	KUBINA	JONES
	LARSON	LEMAN	KELLY
	MACLEAN	MARTIN	KERTTULA
	MENARD	MILLER	PEARCE
	NAVARRE	PETTYJOHN	POURCHOT
	PHILLIPS	RIEGER	RODEY
	SHARP	SHULTZ	STURGULEWSKI
	SWACKHAMMER	TAYLOR	SZYMANSKI
	ULMER	WALLIS	UEHLING
	ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: DALE HYDER
TITLE:
ADDRESS: 10233 CHICKALOON
CITY: EAGLE RIVER, AK ZIP: 99577
PHONE: 694-3354
BILL NO:
SUBJECT: CONSTITUTIONAL AMENDMENT ON SUBSISTENCE
MESSAGE: I STRONGLY OPPOSE THE PROPOSED AMENDMENTS TO THE STATE CONSTITUTION ESTABLISHING RURAL RESIDENTS OR ANY SEGMENT OF THE POPULATION TO PRIORITY USE OF THE STATE'S NATURAL RESOURCES AND FISH AND GAME. WE SHOULD CONTINUE TO STRIVE FOR EQUALITY. /JM

POMID: 03155627
DATE: 03/12/90
TIME: 15:56:27
LIONAME: ANCHORAGE LIO

COPIES:	REPRESENTATIVES	REPRESENTATIVES	SENATORS
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	COLLINS	COTTEN	COGHILL
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	DONLEY	ELLIS	ELIASON
	FINKELSTEIN	FOSTER	FAHRENKAMP
	FURNACE	GOLL	FAIKS
	GRUENBERG	GRUSSENDORF	FISCHER
	HANLEY	HOFFMAN	FRANK
	HUDSON	JACKO	HALFORD
	KOPONEN	KUBINA	JONES
	LARSON	LEMAN	KELLY
	MACLEAN	MARTIN	KERTTULA
	MENARD	MILLER	PEARCE
	NAVARRE	PETTYJOHN	POURCHOT
	PHILLIPS	RIEGER	RODEY
	SHARP	SHULTZ	STURGULEWSKI
	SWACKHAMMER	TAYLOR	SZYMANSKI
	ULMER	WALLIS	UEHLING
	ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: DOUGLAS BROWN
TITLE:
ADDRESS: 1221 W 80TH
CITY: ANCHORAGE ZIP: 99518
PHONE: 276-3363
BILL NO: HB 396
SUBJECT: PROBATION OFFICER 20 YEAR RETIREMENT
MESSAGE: I ENCOURAGE YOU TO SUPPORT HB 396, GIVING PROBATION OFFICERS PARITY WITH PEACE OFFICERS IN THE RETIREMENT SYSTEM. WE ARE IN CONSTANT CONTACT WITH CRIMINALS, PLACING OUR SAFETY AND WELFARE IN JEOPARDY, PERFORMING POLICE FUNCTIONS TO PROTECT THE PUBLIC. THIS RETIREMENT WILL HELP RETAIN THE EXPERIENCE WE NOW LOSE DUE TO HIGH TURNOVER IN THIS DEMANDING JOB.I ENCOURAGE YOU TO SUPPORT HB396. -TP

POMID: 03164532
DATE: 01/16/90
TIME: 16:45:32
LIONAME: ANCHORAGE LIO

COPIES:

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DAVIS, C.	DAVIS, M.
DONLEY	ELLIS
FINKELSTEIN	FOSTER
FURNACE	GOLL
GRUENBERG	GRUSSENDORF
HANLEY	HOFFMAN
HUDSON	JACKO
KOPONEN	KUBINA
LARSON	LEMAN
MACLEAN	MARTIN
MENARD	MILLER
NAVARRE	PETTYJOHN
PHILLIPS	RIEGER
SHARP	SHULTZ
SWACKHAMMER	TAYLOR
ULMER	WALLIS
ZAWACKI	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: GARY SINKOLA
TITLE:
ADDRESS: PO BOX 84293
CITY: FAIRBANKS ZIP: 99708
PHONE: 474-8871
BILL NO:
SUBJECT: SUBSISTENCE
MESSAGE: RAMONA BARNES AT FIRST GLANCE IT APPEARS THAT YOUR SUBSISTENCE BILL IS FAIR TO ALL ALASKANS. REMEMBER AN OLD ALASKAN MOTTO - WE DON'T GIVE A DAMN HOW THEY DO IT OUTSIDE. THE FEDS GAVE ALASKA A POLITICAL JUGGERNAUT. EOM/MJO/C

POMID: 07101237
DATE: 01/16/90
TIME: 10:12:37
LIONAME: FAIRBANKS LIO

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PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JAN KLUSKA
TITLE:
ADDRESS: 7736 SNOWVIEW DRIVE
CITY: ANCHORAGE ZIP: 99507
PHONE: 349-5956
BILL NO:
SUBJECT: POLISH FISHERMAN
MESSAGE: I AM CONCERNED ABOUT THE POLISH FISHERMAN'S DEPORTATION. I AM A CITIZEN, ALSO POLISH, AND I THINK THAT THEY ARE NOT ABUSING HOSPITALITY OF THIS GOVERNMENT BECAUSE THEY ARE NOT COSTING US THROUGH ANY OF OUR PROGRAMS. THEY ARE HARD WORKERS AND DON'T ASK FOR WELFARE. ALL HELP THEY RECEIVE COMES FROM POLAND. I THINK THAT IT WOULD BE TO OUR ADVANTAGE TO LET THEM STAY. THE MAIN POWER IN POLAND IS STILL COMMUNIST. /DJ

POMID: 03154935
DATE: 01/15/90
TIME: 15:49:35
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PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: VERA JOHNSON
TITLE:
ADDRESS: 625 W 45TH AVE., APT 3
CITY: ANCHORAGE ZIP: 99503
PHONE: 265-8880
BILL NO:
SUBJECT: POLISH DEFECTORS IN ALASKA
MESSAGE: EASTERNERS AND MEXICANS BY FAR OUTNUMBER THE FEW POLISH DEFECTORS IN THIS COUNTRY, SO WHY IS IMMIGRATION SENDING 60 OF THEM FROM ANCHORAGE BACK TO POLAND? THEY ARE VERY HARD WORKERS, AND VERY NICE. ALSO, MOST OF THEM ARE FISHERMEN, AND SO ARE NOT TAKING ANY JOBS AWAY FROM AMERICAN MEN BECAUSE AMERICAN MEN DON'T CARE TO WORK SO HARD FOR SUCH SMALL WAGES. MANY OF THESE MEN ARE STILL AFRAID TO RETURN TO POLAND.

POMID: 03154538
DATE: 01/15/90
TIME: 15:45:38
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SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JOHN RYBCZYNSKI
TITLE:
ADDRESS: 3840 YOUNG STREET
CITY: ANCHORAGE ZIP: 99508
PHONE: 563-3192
BILL NO:
SUBJECT: POLISH FISHERMEN
MESSAGE: I WAS IN THE SAME SITUATION A FEW YEARS BACK. NOW I AM A U.S. CITIZEN AND I AM PROUD. I THINK THAT IF THE OTHER POLISH FISHERMEN ARE LET IN THE UNITED STATE, THEY WILL ALSO BE A CITIZEN LIKE ME. THEY ARE HARD WORKERS AND THEY WILL BUILD A FUTURE FOR A GOOD ALASKA. /BN

POMID: 03140610
DATE: 01/15/90
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PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: MR. DENNIS DRAPER
TITLE:
ADDRESS: 3703 WESTMINSTER WAY
CITY: ANCHORAGE ZIP: 99508
PHONE: 338-3486
BILL NO: HJR 63
SUBJECT: DEPORTATION OF POLISH SEAMEN
MESSAGE: PLEASE ALLOW THE POLISH SEAMEN WHO HAVE APPLIED FOR ASYLUM IN1989 T EMAIN IN THE UNITED STATES. WE WERE IN POLAND IN JULY OF 1989, AND SAW WHAT T ARE AFRAID TO GO BACK TO. ANYTHING YOU CAN DO ON THEIR BEHALF IS GREATLY APPRECIATED. WE ARE CURRENTLY HOUSING 3 OF THE SEAMEN INOU HOME, AND WOULD BE GREATLY DISTRESSED BY THEIR DEPORTATION.

POMID: 03161221
DATE: 01/15/90
TIME: 16:12:21
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Alaska State Legislature

Please enter into the record my testimony to the House Resources Comm.
committee name

committee on Subsistance, dated 3-1-90.
bill/subject

I am strongly opposed any constitutional amendment granting a subsistance priority to rural Alaska Residents. A subsistance priority should be based on an individual needs basis which means the state Governor + Legislature should work for a change in the Federal Law that mandates a subsistance priority on the rural residency criteria.

Signed: Charles W. Derrick Jr. CHARLES W. DERRICK J
Testifier

Representing (Optional)

891 SELDOM SEEN RD.
Address

FAIRBANKS, AK 99712
Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the _____
committee name

committee on SUBSISTENCE, dated 10 MAR 90.
bill/subject

I oppose any Ammendment to the State Constitution. that Puts a priority for Subsistence to any Group, or person I support the Equal treatment of all Alaskan Citizens IN the use of Our Resources ; IS the NON SUBSISTENCE USER has Been DISCRIMINATED against. DO NOT SUBMIT OUR Constitution By Creating a Situation when the Majority of People are not allowed to Hunt + fish.

Signed: Stan Bloom
Testifier

Representing (Optional)

303 Bentley Dr FAIRBANKS AK 99701
Address

452 5068
Phone No.

The Governor says if we just change our constitution we will return to the pre McDowell status on subsistence. From what I remember that wasn't so good. The State had lost the Kenatzi Case , had lost the Lime Village case, and the Outdoor Councils lawsuit. The judge ruled that Alaska was out of compliance with ANILCA. The State had issued a racialy based education permit and had been ordered by the judge to submit a new plan to provide a preference to the Keniatze Indians. The last I heard they still haven't done that. They were saying that the whole Kenia peninsula would have to be called rural. Surely if the Kenai is rural so is Chena Hot Springs Road. ~~I sure wouldn't want to go back to that.~~

All I seem to hear is how the subsistence user is not being treated fairly. It is the urban people who's rights have been violated. We are the injured parties. We have been denied our constitutional rights under the subsistence law. Thank God for courages people like McDowell. Without someone like him who is not afraid to put up the money and time we would all have to suffer under unconstitional laws The legislators who voted for the 86 amendments should ask our forgiveness. Now you have the gall to ask us to change the constitutuion so we can be discriminated against again. The Governor swore to uphold and to protect our constitution not to subvert it. If you force us to vote on the subsistence ammendment we will hold you accountable, if you vote for it you will have lost my vote forever. You who will be coming back to ask for our votes in November can just remember that.

Its time that we challenge the Federal law in the courts . We should treat all our citizens equaly. There is no way to fairly allow some people to use our resources while restricting others. The framers of our constitution foresaw this problem and provided the safeguards that you are trying to subvert

Stan Bloom

1. oppose const amendment

2. Active Management

3.

4

5

6 Basis personal need of Dependent lifestyle

Since I was a boy the constitution was stood as an ultimate and sacred protection of our [illegible] rights such as freedom of Speech, religion, Bear arms and freedom of the press. The state constitution is also a sacred document. I dont take your effort to change the constitution & allow [illegible] lightly.

maybe the contact with the Russians hasnt been such a good thing if we are adopting their ideas on democracy may be we need a little isolation or restrictions here.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR-88 , dated 3/10/90
bill/subject

See attached

Signed: Tom Scarborough
Testifier

Self
Representing (Optional)

1626 Tanaka Drive, Fairbanks AK 99709
Address

479-6602
Phone No.

THOMAS W. SCARBOROUGH
1676 TAROKA DRIVE
FAIRBANKS, ALASKA 99709

March 10, 1990

Re: Comments on HJR-88, Constitutional Amendment Relating to Subsistence Uses of Fish and Wildlife by Rural Residents

To House Resources Committee

The proposed Amendment as stated in HJR-88 would remove the Civil Rights as granted under Art. 1, Sec. 3 of the Constitution of Alaska. This is the right under which McDowell acted to chalange the State Subsistence Law. This right would be removed by the proposed Amendment. This Amendment may appear to be a short term solution, however the long term must be considered.

Back in 1972 it appeared a good idea to limit entery to Alaska's fisheries. Now 80"% of the limited entery permits are owned by non Alaskans. Hindsite tells us that we made a big mistake in that constitutional amendment. To proceed with an amendment on subsistence will be a bigger mistake.

I urge you not to place HJR-88 before the Alaskan public to vote on. The consideration of removing rights that we Alaskan's and Americans have fought for over the past 200 years should not even be given serious consideration.

Thomas W Scarborough

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
committee name

committee on HJR 88 and 90, dated 3/7/90
bill/subject

Copy of testimony attached

Signed: [signature] 3/10/90
Testifier

Self.
Representing (Optional)

1126-2nd AVE FBKS, AK 99701
Address

456-5441
Phone No.

9/86 Legislative Information Office

Testimony by: March 10, 1990

Bud Wiese

Fairbanks, Alaska 99701

I am 68 years old - 49 years in Alaska - 2 childern - 5 grandchildern, all born in Alaska.

Am a conservationist and have worked with sportsmens and other groups for over 40 years for the proper management and wise use of all our resources.

Also for 40 plus years our family have harvested and processed fish, game, berries and etc, for what we feel is a subsistence life style as much as anyone with probably very few exceptions both rural and/or urban. To elaborate with pride, except for very few specialty item such as ham, turkey, oysters or eating out, we have fulfilled our needs of fish, red meat,and beeries off the land. We try hard to take only what we can use - such as now our family group has a limit of 6 plus moose plus caribou, sheep, deer and etc, but feel 2 moose and some of the smaller animals are what we can use and limit ourselves. I assure you we have the capability of taking much more. We do not bone animals in the field and in processing, there is very little waste. These resources are in most cases shared by our group that now number from 17 to 21, this includes the kids of our group.

So now that you have heard where I come from - I ask you, do you feel that a Constitutional Amendment is necessary to limit my and/or our group the opportunity to continue this Subsistence life style because

"continued"

some of us choose to live in an urban area just to conform with Federal regulations that have broken a legal contracts they have with the people of Alaska.

Ask yourself, why have the Feds continued to violate the contracts given to us and they agreed to under the Alaska State Constitution and the Statehood Act? Is it to take back control of Alaska or is it the money they receive from special interest groups to keep us Alaskan divided and weak.

Thank you.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES committee name

committee on H.J.R. 88 bill/subject, dated MAR 10TH 1990.

See Attached Letter

Signed: Chester F. Snyder Jr.
Testifier

Self and Fairbanks Subsistence Users in Urban Area
Representing (Optional)

1011 25TH AVE FBKS 99701
Address

456-2437
Phone No.

Subsistence Issue

My name is Chester Sniegowski, and I reside at 1011 25th Avenue in Fairbanks, Alaska.

Adopting a constitutional amendment to ratify a bad Federal law is no answer to the Subsistence issue. I am married and I have five (5) children. My family and I moved to Alaska eleven years ago because this was the Last Frontier. We use approximately seventy salmon, two caribou, and one moose per year. This is not enough resource for my family to subsist on. Just because I chose to settle in Fairbanks, Alaska, I am penalized and treated unequal to other Alaskan living in a rural area.

When you really think about it the only sportsman fishing or hunting in Alaska is the Non-Resident. Ever Alaskan should be and rightfully so, considered a subsistence user.

Some Alaskan whether they live in a rural or a urban community, will use the resources less than others, but let's let the individual resident not the government decide, who will get that opportunity.

Let's be fair and just to all Alaskan and make all Alaskan residents subsistence qualified, or fight the Federal government in court to preserve our State Constitution, which guarantee equal use of our fish and game resources to all Alaskan.

Thank you.

PS. Please refer to the Constitution of the State of Alaska, Article I Declaration of Rights, Section 1, Section 3, and Section 23. Also Article VIII, Section 3.

Oppose subsistence amendment to Constitution
Public Testimony -- March 10, 1990

Mary Bishop
1555 Gus's Grind
Fairbanks, AK 99709

The state's subsistence law is working pretty well, you may say, and we don't want federal take over. Well it's not working well. Have you heard of the serial lawsuits? Madison, Eluska, Ewan, John, Bobby, Kenaitze, McDowell. I'm sure there's more, I think the state has lost them all.

With each one, we've found that the subsistence priority isn't what most people thought it was. With each court case, we realize it's worse than we could have imagined. After the ruling in the Lime Village case, Lew Pamplin, director of the state's Division of Wildlife Conservation is quoted in an Anchorage paper as saying, "It's awful. It's real confusing to me. I'm not sure where we are now."

We've learned that the priority exists all the time, not just during a shortage. The priority means that residents of Lime Village have a moose season that calls for no limit, either sex, open six months of the year. The priority means that recreational and commercial use must be eliminated before subsistence use can be restricted below what's "customary and traditional". The priority goes to Nenana residents, but not to people living 4 miles outside Nenana. The priority means that people on the Chena Hot Springs Road must watch residents of Nenana and Minto hunt in their back yard while they can't hunt at all. The priority means that members of a tribal group scattered throughout the Kenai must get a priority over their non-tribal neighbors.

Subsistence, you may say, doesn't exist except in rural areas. So what's the problem with supporting the Governor's proposal.

Well, lots of people seem to disagree about where subsistence does or doesn't exist. We can start with the state's Supreme Court. In the McDowell opinion, page 27, the court used data from the Subsistence Division's research to conclude that

> "There are...substantial numbers of Alaskans living in areas designated as urban who have legitimate claims as subsistence users. Likewise, there are substantial numbers of Alaskans living in areas designated as rural who have no legitimate claims."

Rep. Kay Wallis must agree; just two days ago she introduced a

+ several today have agreed with her.

bill to give all Natives--both rural and urban--special subsistence rights. Rep. Jacko must think subsistence isn't just rural; he wants a bill that allows for local rather than rural preferences.

The Governor wants to restrict this subsistence right on the basis of rural--but his staff admits they don't know what rural means--and we won't know until the feds tell us. And this is so we can maintain state, rather than federal management?

The Governor says this subsistence use is so important that we must protect it as a Constitutional right--like the right to free speech and the right to assemble. He says we should use the state's Constitution to give one group of citizens a certain right which, in turn, must be taken away from another group of citizens. That's frightening--to use the Constitution for such a purpose.

Then to add insult to injury, we don't even know what rural and non-rural mean--or for that matter what subsistence and non-subsistence mean. Can you, our legislators, define these words? Can you add these words to our Constitution when we don't even really know what they mean? Is this the stuff of which Constitutions should be made?

We mustn't wrong our constitution just because the federal law is wrong. Two wrongs never made a right.

So how do we solve the problem we're in? We must change federal law, and we can. I [redacted] personally [redacted] that our Congressional delegation will work for a change in the law--but only if we stand strongly behind them with one voice coming out of our state legislature.

[We must not, in this great state's constitution, make a provision that discriminates so unfairly between citizens.] We must not make any Alaskan citizen's customs and traditions, religion, race or culture more important than his neighbor's customs and traditions, religion, race or culture.

Haven't we learned from history. Don't we have examples enough in this world, right now, of the conflicts and violence that finally erupts when governments discriminate on the basis of race, customs, cultures or religion. [redacted]. Don't do it.

[redacted]

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
committee name

committee on HJR66 & related bills, resolutions, dated 3/10/90
bill/subject

AS PER ATTACHED

Signed: Richard Bishop
Testifier

SELF
Representing (Optional)

1555 GUS'S GRND, FAIRBANKS AK 99709
Address

907-455-6151
Phone No.

ALASKA'S SUBSISTENCE DILEMMA

opinion column, by Richard Bishop, March 9, 1990

1655 Cowles #2 Fairbanks AK 99709
ph 907-456-6851

Years ago Governor Jay Hammond observed that subsistence was like pornography--everyone could recognize it when they saw it, but no one could define it.

In spite of that insight, subsistence definitions were politically contrived and cast in state and federal law, only to be thrown out by courts 10 years later after unending arguments and serial lawsuits.

In the wake of the frantic pipeline construction era the state legislature passed a law in 1978 giving subsistence use of fish and wildlife priority over other uses. (In that 1978 law, subsistence use was not limited to residents of rural Alaska.) Advocates claimed it would save Alaska's native cultures and would keep Congress from putting the priority in federal law. It did neither.

Ironically, the same advocates pointed to the state law as evidence that Alaskans would not object to a similar federal law. But the world "rural" was added in the 1980 federal law at the insistence of the Alaska Federation of Natives. The state then added "rural" to comply with Federal law. Incredible as it seems, the argument was that by complying fully with federal

mandates, the state would retain its authority to manage fish and wildlife!

Unfortunately no one seriously checked to see if the state law was constitutional. The Alaska Supreme Court declared this fall that it's not.

A priority based on rural residency doesn't comply with the constitution's mandate that fish, waters, and wildlife be managed for "common use".

The law was a loser anyway. Besides its other failings, it dictated that commercial and recreational uses could not be allowed unless and until subsistence use opportunities were fully accommodated. That doesn't sound too bad until you find out in court that the only limits on priority subsistence uses are "custom" and "tradition"--or a threat to the fish or game population's well-being. The state was rapidly heading for a "no-season, no bag limit" situation for subsistence use. And given the technology available, ti would be virtually impossible to prove in court that a fish or game population was threatened by subsistence use.

A classic example is the Bobby case, where it was argued that there should be no seasons or bag limits on moose for residents of Lime Village. The state eventually provided a 6 month season, either sex, with no bag limit.

Yet here we are with the Governor and a couple legislators trying to keep this discriminatory and resource-risky scheme in place. They propose a constitutional amendment that would:

- gut the guarantee of common use/equal opportunity;
- provide for a subsistence use priority based on rural residency, and
- keep the same mushy "custom" and tradition" use limitations that can't protect resources.

Keep in mind that the priority is ALWAYS in effect, not just when there's a resource shortage. Also, other uses cannot legally be allowed unless and until priority subsistence use opportunities are met. The public is seldom told this--but the courts have consistently ruled this way.

What to do? Personal consumptive use of fish and wildlife makes a major contribution to many people's livelihoods, and improves the quality of life for many more, regardless of their location or culture. The state constitution mandates the conservation and management of resources on a sustained yield (self-perpetuating) basis for the maximum benefit of the people. People's needs must be accommodated, within the limits of resources.

The constitutional "common use" provision is insurance against the kinds of special interest management disasters that inflamed the statehood movement. We need to keep it. It's not a threat

to any of our cultures. Laws don't preserve cultures, people do, through their daily decisions on how to live. If culture is the concern, eliminate RATNet (Rural Alaska Television Network).

There are better ways to get the federal government off our resource management back than sabotaging our Constitution. How? Amend ANILCA. Remove the rural priority, and the mandate to manage under federal dictate. No other state has a "do-it-or-I'll-take-it-away" federal threat over its fish and wildlife management. We don't need it to provide resources for Alaskans.

We do need active management to maintain and enhance fish and wildlife populations. Many salmon populations have been enhanced through improved managment and hatcheries. Active management could increase wildlife populations and reduce worries about competition among user groups.

The Alaska Constitution and Statehood Act were approved by the federal government. They conveyed to Alaska the authority to manage resources in the state. These laws should be supported, not subverted. ANILCA can and should be amended to conform to the principles established at and for statehood. We need to get on with managing our resources for the benefit of all Alaskans.

If subsistence use is so important that it must be protected by Constitutional amendment, how can 90% of Alaskans be arbitrarily disqualified by limiting it to rural residents only? Our state

and Federal constitutions are often all that stand between the individual's rights and the burdens of government. The constitution should not reduce your rights in the process of trying to increase someone else's. That is a cheap political shot, and the beginning of the end of equal protection under the law.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR 94 & HR 88, dated 10 March 90.
bill/subject

as per attachment

Signed: Samuel Harbo - by Mary Bishop
Testifier

self
Representing (Optional)

Box 80522 - Fbks, AK 99708
Address

457-1815
Phone No.

9/86 Legislative Information Office

Points Against Constitutional Amendment Resolutions
Public Testimony -- March 10, 1990
Sam Harbo, Box 80522, Fairbanks, Alaska 99708, 457-7815

Alaska Supreme Court, McDowell decision, p. 27.

> "There are...substantial numbers of Alaskans living in areas designated as urban who have legitimate claims as subsistence users. Likewise, there are substantial numbers of Alaskans living in areas designated as rural who have no legitimate claims."

Court also says, pages 27 and 28,

> "...the equal access clauses of article VIII are a special type of equal protection guaranty..."

The equal access clauses of article VIII are the ones violated by the rural provision.

I think everyone realizes that the equal protection guaranties in our Constitutions constitute the very foundation of our democratic system. Let's not tinker with them.

If subsistence is such a critically important use that it must be granted special protection by Alaska statute, isn't it crazy to modify the Alaska Constitution so that such an important use can arbitrarily be taken from some Alaskans?

The kind of thinking that tolerates such an approach really frightens me.

Some might argue that subsistence use in rural Alaska is different than subsistence use in urban Alaska, and hence we must have a rural or local residency provision in statute. If rural subsistence use can be distinguished from urban subsistence use, then one should be able to define them as separate uses. Our constitution allows preferences among beneficial uses. Hence, no constitutional amendment needed.

Fear of federal takeover without a rural provision?

The Alaska Supreme Court in McDowell decision says, page 17:

> "State control merely for the sake of control is a questionable goal when the terms infringe upon the open access values of article VIII."

I believe that significantly understates the case!

The clear and compelling reasons why we must not modify the article VIII provisions in our constitution should make for an easy decision for you legislators. You must vote NO on any Constitutional amendment resolution regarding rural or local residency. With such a clear cut case, the argument "I feel I must leave it to the voters" is not only entirely without merit, it is irresponsible.

Given the crystal clear nature of this case, I can only conclude that any legislator who votes in favor of a constitutional amendment resolution does so only because he or she wants to pass discriminatory legislation.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES COMMITEE
committee name

committee on HJR 88 & 90, dated 3/10/90.
bill/subject

I OPPOSE HJR 88 AND HJR 90.
I DO NOT WANT ALASKA TO CHANGE
IT'S STATE CONSTITUTION TO PROVIDE
A RURAL ~~PREFERENCE~~ PREFERENCE.

Signed: Clemens M Clooten CLEMENS M. CLOOTEN
Testifier

Representing (Optional)

1163 LINDA LOU LANE
Address

907-457-7604
Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the _____
committee name

committee on HJR88 & HJR90, dated 3/10/90.
bill/subject

I urge a vote against both HJR88 & HJR90 as the bills are racist and place Alaskans against each other on a basis of race or geographical residence location.

All Alaskans should be able to choose and live a subsistence life style regardless of their race or choice of homesite.

Following a bad lead by the Federal Government is not a solution, only an easy way out and failure of Alaskan legislators to do the job they are voted into office to do.

Signed: Del DeMeritt — Del DeMeritt
Testifier

Self
Representing (Optional)

2049 Old Steese Hwy. N. Fbks AK 99712
Address

457-2692
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Resource
committee name

committee on HJR 74, 88, 90 . dated 10 March 98 .
bill/subject

When Nels Anderson start the hearing out by claiming subsistence rights are the Natives "birthright" it's hard to convince the media that this is not a racial issue.

Please see attached testimony.

Signed: Mary Bishop
Testifier

self
Representing (Optional)

1555 Cuis Cried Fbx 99709
Address

455-6151
Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the Fish & Resources
committee name

committee on H-3/C SB, dated 3/10/90
bill/subject

I am opposed to this maintenance Bill. All citizens should be treated equally, no matter where they reside.

FRANK McGILVARY

Signed: [signature]
Testifier

My Family
Representing (Optional)

Box 1111 Fbks, AK 99701
Address

907 / 457-4975
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
committee name

committee on HJR 88, 74 , dated 3/10/90 .
bill/subject

I'm OPPOSED TO THE OBOLE BILLS

Signed: Carl Russell CARL RUSSELL
Testifier

SELF
Representing (Optional)

PO BOX 56346 NORTH-POLE AK 99705
Address

488-2648
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR 88, 74 , dated 3/10/90 .
bill/subject

I'm opposed To The above bills

Signed: Thomas R Buhite Thomas R. Buhite
Testifier

Jeff
Representing (Optional)

P.O. Box 80096 College, AK 99708
Address

479-2425
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES committee name

committee on HJR 88.74 bill/subject, dated 3/10/90.

I'm OPPOSED TO THE ABOVE BILLS

Signed: Gerald Amundson GERALD AMUNDSON
Testifier

SELF
Representing (Optional)

1025 LAKEVIEW TER. FBKS AK. 99701
Address

456-2207
Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the [illegible] committee name

committee on [illegible] bill/subject , dated [illegible] .

[illegible]

Signed: [illegible] Bruce G. Durlea

Testifier

Representing (Optional)

Address

Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR 88 + 74 & 9C dated 3/10/98
bill/subject

I have been a resident of the state for over 13 years and I am a hunter and fisher. My family and I go regularly to hunt and fish to obtain food for our bodies and renewal for our spirits. My residence in Alaska is by choice - not necessity and Alaska's fishing and hunting opportunities are the primary reasons why I choose to live here.

I am strongly opposed to any legislation or constitutional amendment which denies me the opportunity or gives me less opportunity than others based on where I live within the state or based on someone elses perception of what I need to sustain life. The Alaska Constitution is fine as it is - lets leave it alone.

Signed: Joseph F. Webb
Testifier

Representing (Optional)

6958 No Name Lane, Fairbanks, AK 99712
Address

488-9753
Phone No.

Alaska State Legislature

Please enter into the record my testimony to the Resources
committee name

committee on HJR 74, 88, 90 . dated 3/10/90
bill/subject WHATS WRONG WITH EQUALITY

Article 1, Section 1 of the Alaska Constitution provides, IN PART:
"All persons are equal and entitled to equal rights, opportunities, and protection under the Law."

The U.S Supreme Court in Zobel v. Williams 457 U.S. 55 (1982) found that Alaska's Attempt "To reward citizens for past contributions" WAS "Not a Legitimate state purpose." Alaska's Supreme Court in Schafer v. Uni 680 P2d 1169 (AK 1984) stated that: "It is clear that the federal Constitution will not tolerate a state benefit program which "create fixed, permanent distinctions between... concededly bona fide residents."

Any attempt to racially discriminate among Alaskans or to create a "privileged (rural) Class" will violate the U.S. Constitution.

Equality and equal opportunity is constitutionally mandated. Why would anyo want to [redacted] eviserate these Basic Principles of Democracy. Until you CAN look every Alaskan IN the eye and tell them why you have created a class of persons who have [redacted] state spowsored priority to the opportunity to feed their family Before the discriminated class.

The proposed rural priority Amendments do not comply with ANILCA Because of the Kenitzie case. The grant a [redacted] racial based privilege [redacted] will Be the most devisive AND Discriminatory action you could concieve and will Likely Start A WAR Between Alaskans.

Signed: Lynn Levengood
Testifier

Representing (Optional)
Fairbanks F+G Advisory committee & self

Address
931 VIDF. Way Fbks AK 99709

Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name
committee on HJR 74: Const. Subsistence, HJR 88, dated 3-10-90
bill/subject

I oppose changing the Constitution to ~~change~~ solve this problem. It can be solved by legislation.

Signed: Bill Hall
Testifier

Representing (Optional)

108 Gruening Way Fairbanks, AK 99712
Address

457-1420
Phone No.

9/86 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on HJR 74; Const. Subsistence dated 3-10-90
bill/subject

I oppose a constitutional ammendment to change the subsistence rights. There are proposals which can effectively deal with these issues. These proposals should be utilized to solve our problems.

We have a good constitution and we should not tamper with it to solve short term problems just because the Federal government is exerting pressure from a distant and uninvolved point of view.

Signed: Anne M. Swift
Testifier

Representing (Optional)

108 Drewing Way Fairbanks, Ak. 99712
Address

457-1470
Phone No.

9/88 Legislative Information Office

Alaska State Legislature

Please enter into the record my testimony to the House Resources Committee on
committee name HJR 74 + 88

committee on _____ . dated 3/10/90
bill/subject

I am opposed to a Constitutional Amendment because;

1) I think there is a good Chance the Feds are bluffing - but even if they are not, the Feds would only manage "Subsistance on Federal lands" - an amendment would merely broaden the discrimination to Federal + State land.

2) The requested amendment would do just the opposite of what the framers of the Constitution intended; to wit it to create a "Special Minority Class" (17%) of the people who could enjoy a privileged position.

3) until terms such as "Subsistance", "Rural" and "Special use" are defined you have no idea what effect or affect the Amendment will have.

4) "Aboriginal Rights" are nice - as a theme if they are diminished - but we all loose ways of life style as modern times take away options - Should we create an amendment to allow Horse + Buggys on freeways?

Signed: Stephen K. Cline
Testifier

Self (and about 80% of the people I believe)
Representing (Optional)

5) Native Alaskan!

Address

457-3022 (W) 457-5261 (H)
Phone No.

PUBLIC OPINION MESSAGE

FYI

DEAR: REPRESENTATIVE MENARD

NAME: KEN WYNNE
TITLE:
ADDRESS: 9571 NOBLEWOOD STREET
CITY: ANCHORAGE ZIP: 99515
PHONE: 243-7979
BILL NO:
SUBJECT: SUBSTITENCE
MESSAGE: COWPER ADMINISTRATION ATTEMPT TO OPEN THE STATE CONSTITUTION FOR SI
ITENCE IS ABSURD AND CONTRARY TO THE BEST INTEREST OF ALL ALASKANS. STATE /
EDERAL BUREAUCRATS HAVE ROBBED ALASKA NATIVES OF THEIR SELF ESTEEM, SELF
SPECT AND SELF RELIANCE RELEGATED THEM TO ASSISTANCE OF WELFARE AND POVER
/LASKA NATIVES SHOULD BE TREATED LIKE ALL ALASKANS. THE STATE SHOULD GET T
EDERAL LAW CHANGED. /CMR

POMID: 03090621
DATE: 03/02/90
TIME: 09:06:21
LIONAME: ANCHORAGE LIO

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DAVIS, M.	DONLEY	ELIASON
ELLIS	FINKELSTEIN	FAHRENKAMP
FOSTER	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
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SHARP	SHULTZ	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: BOB ROBES
TITLE:
ADDRESS: POB 1286
CITY: PALMER ZIP: 99645
PHONE: 745-0248
BILL NO: SUBSIS
SUBJECT: SUBSISTENCE
MESSAGE: I SUPPORT EQUAL RIGHTS FOR ALL ALASKANS AND I OPPOSE ANY CONSTITUTIONAL AMENDMENT THAT PROVIDES SPECIAL PRIVLIDEGE FOR ANY SPECIAL INTEREST.

POMID: 14114345
DATE: 03/12/90
TIME: 11:43:45
LIONAME: MAT-SU LIO

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SHARP	
HUDSON	
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: JOHN T SHUE JR
TITLE:
ADDRESS: HC 02 BX 7636
CITY: PALMER ZIP: 99645
PHONE: 745-4911
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I SUPPORT EQUAL RIGHTS FOR ALL ALASKANS. I OPPOSE ANY CONSTITUTIONAL AMENDMENT WHICH PROVIDES SPECIAL PRIVLIDGE TO ANY GROUP.

POMID: 14134203
DATE: 03/10/90
TIME: 13:42:03
LIONAME: MAT-SU LIO

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SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: WAYNE WOODS
TITLE:
ADDRESS: POB 3037
CITY: PALMER ZIP: 99645
PHONE: 745-2534
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I AM STRONGLY OPPOSED TO ANY CONSTITUTIONAL AMENDMENT THAT WOULD DISCRIMINATE AGAINST ANY GROUP OF ALASKANS IN ALLOCATING USES OF OUR COMMON WILDLIFE RESOURCES. NONE-TENTHS OF MY INCOME IS REALIZED BY COMMERCIAL CONSUMPTION OF OUR WILDLIFE RESOURCES. AS A THIRD GENERATION ALASKAN, I WISH TO PROTECT THE RIGHTS OF MY CHILDREN

POMID: 14181520
DATE: 03/10/90
TIME: 18:15:20
LIONAME: MAT-SU LIO

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FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: CAL WILLIAMS
TITLE: POLITICAL CHAIRMAN, N.A.A.C.P.
ADDRESS: P.O.BOX 200332
CITY: ANCHORAGE ZIP: 99520
PHONE: 276-8698
BILL NO:
SUBJECT: SUBSISTANCE
MESSAGE: WE SUPPORT NATIVE PREFERENCE TO ALL FISH AND GAME SHORT OF THIS. WE SUPPORT HJR 90./CMR

POMID: 03133405
DATE: 03/12/90
TIME: 13:34:05
LIONAME: ANCHORAGE LIO

COPIES: REPRESENTATIVES

DAVIS, M.
FOSTER
FURNACE
JACKO
MENARD
NAVARRE
SHARP

PUBLIC OPINION MESSAGE

No response necessary

DEAR: REPRESENTATIVE MENARD

NAME: STEVE JANIK
TITLE:
ADDRESS: 1650 THUJA
CITY: ANCHORAGE ZIP: 99507
PHONE: 349-4854
BILL NO:
SUBJECT: SUBSISTENCE
MESSAGE: I AM OPPOSED TO REPRESENTATIVE JACKO'S PROPOSAL TO AMEND THE STATE CONSTITUTION THAT WOULD ALLOW DISCRIMINATION BASED ON RESIDENCY. DISCRIMINATI BASED ON RESIDENCY IS NO DIFFERENT THAN DISCRIMINATION BASED ON RACE OR RELIGION. /BN

POMID: 03075523
DATE: 02/02/90
TIME: 07:55:23
LIONAME: ANCHORAGE LIO

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FOSTER	FURNACE	FAIKS
GOLL	GRUENBERG	FISCHER
GRUSSENDORF	HANLEY	FRANK
HOFFMAN	HUDSON	HALFORD
JACKO	KOPONEN	JONES
KUBINA	LARSON	KELLY
LEMAN	MACLEAN	KERTTULA
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SHARP	SHULTZ	STURGULEWSKI
SHACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	WEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: DOROTHY T. SIMPSON
TITLE:
ADDRESS: 2130 KNOTTINGHAM DR
CITY: FAIRBANKS ZIP: 99709
PHONE: 479-2832
BILL NO: HJR 88
SUBJECT: SUBSISTENCE
MESSAGE: I STRONGLY OPPOSE THE GOVERNOR'S SUBSISTENCE BILL.

POMID: 07143108
DATE: 03/12/90
TIME: 14:31:08
LIONAME: FAIRBANKS LIO

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FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: EVIE WITTEN
TITLE:
ADDRESS: 525 N STREET
CITY: ANCHORAGE ZIP: 99510
PHONE: 258-5646
BILL NO:
SUBJECT: SUBSISTENCE
MESSAGE: PLEASE SUPPORT HJR 88: AMEND THE ALASKA STATE CONSTITUTION TO AGRE WITH ANILCA. SUBSISTENCE RIGHTS SHOULD NOT BE GRANTED ON THE BASIS OF RACE WEALTH, AND TRADITIONAL RURAL USES SHOULD BE ALLOWED TO CONTINUE WITHOUT CUMBERSOME BUREAUCRATIC CONTROL. KEEP SUBSISTENCE RIGHTS UNDER STATE CONTRO WORK OUT DETAILS AFTER 7/1/90.

POMID: 04131859
DATE: 03/12/90
TIME: 13:18:59
LIONAME: BARROW INFO OFFICE

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JACKO	KERTTULA
FOSTER	ELIASON
NAVARRE	FRANK
FURNACE	HALFORD
SHARP	STURGULEWSKI
HUDSON	ZHAROFF
DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: T. K. FOSS
TITLE:
ADDRESS: 1509 BANNISTER
CITY: ANCHORAGE, AK ZIP: 99508
PHONE: 272-6354
BILL NO: HJR 90
SUBJECT: CONSTITUTIONAL AMENDMENT-SUBSISTENCE
MESSAGE: RE HJR90, HJR88, HJR74 I AM OPPOSED TO THE PASSAGE OF THE ABOVE HJR 88, HJR 74, HJR 90. /JM

POMID: 03104659
DATE: 03/12/90
TIME: 10:46:59
LIONAME: ANCHORAGE LIO

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	SHACKHAMMER	TAYLOR	SZYMANSKI
	ULMER	WALLIS	UEHLING
	ZAHACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: GARY FEASTER
TITLE: MAT VALLEY SPORTSMENS CLUB
ADDRESS: POB 1875
CITY: PALMER ZIP: 99645
PHONE: 745-3841
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: & 88 & 90: I REPRESENT 110 MEMBERS OF THE MATANUSKA VALLEY SPORTSMENS CLUB. WE STRONGLY OPPOSE ANY AMENDMENTS TO THE CONSTITUTION WHICH PROVIDE SPECIAL PRIVLIDGES TO ANY GROUP. SUCH AMENDMENTS WILL VIOLATE THE RIGHTS OF ALL ALASKANS.

POMID: 14114757
DATE: 03/12/90
TIME: 11:47:57
LIONAME: MAT-SU LIO

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	MENARD	SZYMANSKI
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	FURNACE	HALFORD
	SHARP	STURGULEWSKI
	HUDSON	ZHAROFF
	DAVIS, M.	

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE DAVIDSON

NAME: POLLY WHEELER
TITLE:
ADDRESS: P.O. BOX 82291
CITY: FAIRBANKS ZIP: 99708
PHONE: N/R-
BILL NO: HJR 74
SUBJECT: CONST. AMDT: SUBSISTENCE PREFERENCE
MESSAGE: I SUPPORT A CONSTITUTIONAL AMENDMENT TO PROVIDE A PREFERENCE FOR SUBSISTENCE USE OF ALASKA'S FISH AND WILDLIFE BASED ON LOCAL AND RURAL RESIDENCY THIS PREFERENCE HELPS PROVIDE THE OPPORTUNITY FOR ALASKA'S PEOPLE TO LIVE OFF THE LAND AND PRESERVE OR PARTICIPATE IN A RURAL LIFE STYLE. WE URBAN RESIDENTS HAVE ADEQUATE OPPORTUNITY TO HUNT AND FISH. EOM

POMID: 07105429
DATE: 02/15/90
TIME: 10:54:29
LIONAME: FAIRBANKS LIO

COPIES: REPRESENTATIVES

JACKO
BOYER
DAVIS, M.
KOPONEN
SHARP
MILLER
MACLEAN
KUBINA
FOSTER
GOLL
GRUSSENDORF
MENARD
NAVARRE
HUDSON
FURNACE

Alaska State Legislature

Please enter into the record my testimony to the Resources - House committee name

committee on HJR 74 HJR 88 HJR 72 bill/subject, dated 3/10/90.

(A Hackett)

(A) "Prevalence of Diabetes Mellitus in Alaskan Eskimos, Indians, and Aleuts" (Diabetes Care 11:693-700, 1988)

(B) "Diabetes Mellitus in Alaska Natives" Arctic Investigations Laboratory, Centers for Disease Control (Program Notes No. #6 3/87)

Signed: Merle J. Murphy MD
Testifier

(SEARHC) South East Alaska Regional Health Corp.
Representing (Optional)

145 Halibut Point Road
Address

747-5485
Phone No.

Prevalence of Diabetes Mellitus in Alaskan Eskimos, Indians, and Aleuts

Cynthia D. Schraer, MD
Anne P. Lanier, MD, MPH
Edward J. Boyko, MD, MPH
Dorothy Gohdes, MD
Neil J. Murphy, MD

The prevalence of diabetes mellitus in Alaska Natives has been thought to be low, but no survey of this condition in all natives has been conducted. Medical records from 1979 to 1985 were reviewed to determine the prevalence of diagnosed diabetes mellitus in Alaska Natives. Computerized outpatient and inpatient medical record data and clinician reports were used to identify cases. As of December 1985, 610 living Alaska Natives fulfilled diagnostic criteria for diabetes. Type II diabetes mellitus was found in 564 subjects, type I diabetes was found in 15 subjects, and unspecified type of diabetes was found in 31 subjects. The overall age-adjusted prevalence of diabetes mellitus, 15.7/1000, was lower than the overall United States rate of 24.7/1000. However, age-adjusted prevalence varied considerably by ethnic group; the prevalence was 27.2/1000 among Aleuts, 22.8/1000 among Alaskan Indians, and 8.8/1000 among Alaskan Eskimos. Rates within the Eskimo subgroups varied by a factor of four. Compared with previous reports, the prevalence of diabetes mellitus in Alaskan Eskimos appears to have increased. Diabetes mellitus is no longer a rare condition among Alaska Natives. *Diabetes Care* 11:693–700, 1988

Studies of Alaska Natives and other arctic indigenous populations have indicated a low prevalence of diabetes mellitus compared with the 1980 United States prevalence of 24.7/1000 for all races (1). A 1957 survey of 16,000 Alaskan Eskimos revealed 3–6 cases, depending on diagnostic criteria, for a crude prevalence of 0.2–0.4/1000 (2). Reports over the subsequent 15 yr revealed an increasing, but still low, prevalence of glucose intolerance in Alaskan Eskimos (3,4). Reviews of historic information indicate low prevalence rates in several Eskimo groups (5–9). In the 1960s a study of Alaskan Athabaskan Indians reinterpreted with 1985 World Health Organization (WHO) diagnostic criteria, identified 3 cases among 306 subjects >20 yr old (9.8/1000) screened by oral glucose tolerance test (OGTT; 10). The low prevalence of diabetes in arctic populations is in contrast to that among American Indians, who have experienced a dramatic increase in diabetes prevalence during the twentieth century to rates as high as 341/1000 in the Pima Indians of Arizona (6,11–13).

In recent years, several clinicians in Alaska have noted an apparent increase in the number of Alaska Natives with diabetes. Because of these observations, a project was initiated in 1985 to develop a diabetes registry to improve patient care and to define the magnitude of the problem of diabetes among Alaska Natives. We describe the prevalence of diabetes among Alaska Natives as of 31 December 1985 and compare it with previous data.

PATIENTS AND METHODS

The Alaska Native population consists of three major ethnic groups, Eskimos, Indians, and Aleuts (14). These major groups may be further subdivided into linguistic groups that have traditionally occupied certain geo-

From the Diabetes Program, Alaska Area Native Health Service, and the Arctic Investigations Laboratory, Centers for Disease Control, Anchorage, Alaska; the Department of Medicine, University of Colorado Health Science Center, Denver, Colorado; the Indian Health Service Diabetes Program, Albuquerque, New Mexico; and the Alaska Native Health Service, Bethel, Alaska.

Address correspondence and reprint requests to Dr. Cynthia D. Schraer, Diabetes Program Coordinator, Alaska Area Native Health Service, Box 107741, Anchorage, AK 99510.

The opinions expressed in this article are those of the authors and do not necessarily reflect the views of the IHS.

FIG. 1. Geographic distribution of native groups within Alaska.

graphic areas of the state (15) (Fig. 1). The Eskimos can be divided into two major groups, the Inupiaq (northern) and the Yupik (southwestern) (16). Alaskan Indians include the Athabaskan tribes of the interior and the tribes of the Pacific Northwest coast (14). The Aleuts include the residents of the Aleutian and Pribilof Islands and from the tip of the Alaska Peninsula. The inhabitants of the remainder of the Alaska Peninsula, the Kodiak area, and coastal regions of southcentral Alaska identify themselves as Aleut although linguistic and anthropologic studies classify them as Sugpiaq Eskimos (15–17). In the current medical records system and in this report, the term *Aleut* includes these groups. Comprehensive health care is available to all Alaska Natives directly through the Indian Health Service (IHS) or by contract with regional native health corporations. The state is divided into nine IHS service units (Fig. 2), each of which consists of a constellation of village clinics staffed by health aides and/or mid-level practitioners and a small referral hospital or clinic staffed by physicians. The 170-bed Alaska Native Medical Center in Anchorage serves as a tertiary referral center. In six of the nine service units the IHS offers the only full-service health care available; in all service units, IHS care is free of charge, including

FIG. 2. Indian Health Service health delivery service units in Alaska.

prescription medications. It is estimated that >90% of the Alaska Native population uses the IHS system in some way for health care.

Patients with diabetes were ascertained from a computerized health-care data base, the Patient Care Information System (PCIS), which was established by the IHS in Alaska in 1979. At the time it was established, all diagnoses on master problem lists from all charts at IHS facilities were entered into the data base. Since its inception, all inpatient and outpatient visits at IHS facilities in Alaska and outpatient visits at all but two native corporation facilities have been recorded in PCIS. Information recorded includes demographic data, narrative and International Classification of Diseases (ICD)-9–coded diagnoses for each in- or outpatient visit (inclucing pharmacy visits), an active and inactive problem list, a location and provider code for each visit, and in some cases, laboratory values and medications prescribed. This system was used to obtain the names of all patients seen with diabetes and its insuing complications by a physician, physician's assistant, or nurse practitioner between early 1979 and 31 December 1985. Names of patients for whom diabetes had been noted on the problem list before 1979 were also obtained. The ICD-9 codes used in the search were the following: 250–250.9, 357.2, 362.0–362.02, 366.41, 648.0, 648.8, 775.0, and 790.2, (see APPENDIX). The computerized health summary and/or the patients' charts were then reviewed either by one of the authors or by a physician or nurse at the patient's home facility to verify the diagnosis. As an additional verification check, the local physicians at each facility were asked to supply names of any diabetic patients meeting the criteria who had not been identified by the PCIS system. The two native corporation facilities that did not submit data to PCIS were the Nome Service Unit (population 5787) and Kodiak Island (population 2171; within the Anchorage Service Unit). For Nome, cases were ascertained from files of ICD-9–coded diagnoses maintained locally for each in- and outpatient visit. For Kodiak, cases were ascertained from a diabetes registry maintained locally. In all cases, records were reviewed for diagnostic criteria.

The diagnosis of diabetes was accepted if the records contained information meeting the 1985 WHO criteria for diabetes (18). In addition, patients were accepted as diabetic if records showed a history of oral hypoglycemic agent or insulin prescription. These criteria were used only for those whose available records did not include pretreatment laboratory values and whose glucose values while on medication were either not available or below the diabetic range.

Cases of diabetes were classified as type II if specified as *adult onset, non–insulin dependent,* or *type II* in the diagnosis or if management had included diet alone or oral hypoglycemic agents. The diagnosis of type I diabetes was accepted only when all of the following were true: *type I* or *juvenile onset* noted by the primary physician, continuous management with insulin, and a history of either ketoacidosis or a labile glycemic response to insulin consistent with type I diabetes. The term *insulin-dependent diabetes* was not accepted as equivalent to type I because in many cases this term referred to a type II diabetic patient on insulin. The designation *diabetes, type unspecified* was used for cases in which a clear-cut distinction was not possible based on the information available to the authors. Diabetes secondary to other conditions was included in this group.

Two other groups of patients were identified. An impaired glucose tolerance group included patients with at least one fasting plasma glucose level of 115–139 mg/dl or at least one random or 2-h glucose level of 140–199 mg/dl. Patients with a past diagnosis of gestational diabetes were included in this group. A "possible diabetes" group consisted of patients with a history of one fasting plasma glucose level of ≥140 mg/dl or one random or 2-h plasma glucose level of ≥200 mg/dl.

Ethnicity and blood quantum (i.e., self-declared proportion of native ancestry) were taken from the PCIS data base or, if not present in this data base, from local hospital or clinic records. Patients were classified as Eskimo, Alaskan Indian, or Aleut. For rate calculations, IHS estimates of the 1985 population for all Alaska Natives, for each ethnic group, and for each service unit were used. Estimates of the total population and each service unit population were based on the 1980 United States census corrected for births and deaths in subsequent years. The proportion of the total represented by each age, sex, and ethnic group (Eskimo, Indian, Aleut) was assumed to be constant from 1980 to 1985. Age- and sex-specific population data for each ethnic group were based on the 1980 distribution, applied to the 1985 estimated ethnic populations.

The Alaska rates were age-adjusted to the 1980 United States rates for all races by the direct method (19). Comparisons between age-adjusted rates were made with the method of Chiang as described by Lilienfeld and Lilienfeld (20). Comparison of crude rates was done with χ^2-techniques to enable an overall test to be performed. For multiple pairwise comparisons of rates, an adjusted Bonferroni *P* value was used (21).

RESULTS

We identified 1585 patient records containing the ICD-9 codes listed in the PCIS system (APPENDIX). Service unit physicians identified an additional 22 patients, 14 of whom were from the two clinics that did not report outpatient visits to PCIS. Of the 1607 records reviewed, 610 Alaska Natives residing in Alaska at the end of 1985 met the criteria for diabetes mellitus. An additional 72 patients had evidence of impaired glucose tolerance, and 34 patients had possible diabetes. The status of 35 patients was unknown, because of either incomplete records (8 patients) or incomplete residence information (27 patients) (Table 1). Most Alaska Native patients with an unspecified type of diabetes were probably type II

TABLE 1
Summary of diabetes classification of Alaska Natives based on medical record review, December 1985

Total records reviewed	1607
Eliminated from study*	856
Diabetes, total	610
Type I	15
Type II	564
Type unspecified	31
Evidence of impaired glucose tolerance	72
Possible diabetes	34
Incomplete records	8
Possible non-Alaskan residence	27

*Due to non-Native race (431), no evidence for glucose tolerance abnormality (246), death (156), or duplication of records (23).

diabetic individuals based on age distribution. The exceptions were 2 pancreatectomized patients and 2 patients with a rare congenital syndrome of thiamine-dependent anemia with deafness and diabetes (22). Eight hundred fifty-six patients were eliminated from the study, 431 because of non-Native race, 246 because no evidence of glucose tolerance abnormality was found, 156 because of death before 31 December 1985, and 23 because of duplication of records. The 246 with no evidence of glucose intolerance included those with "rule out diabetes," "family history of diabetes," "wants check for diabetes," and other statements in the record that had been coded to diabetes.

The age-adjusted prevalence of diabetes among Alaska natives as of 31 December 1985 was 15.7/1000. There was a threefold variation within the population, with Eskimos showing an age-adjusted prevalence of 8.8, Indians 22.0, and Aleuts 27.2/1000. The age-adjusted Eskimo rate differed significantly from both the Indian ($Z = 8.97$, $P < .001$) and the Aleut ($Z = 7.38$, $P < .001$) rates, and the two latter were not significantly different ($Z = 1.87$, $P < .061$). Rates in all groups generally increased with age (Table 2). Age-specific rates after age 25 yr for Indians and Aleuts were similar to United States rates, whereas those for Eskimos were lower (Fig. 3). After age 35 yr, age-specific rates among Eskimos were continually significantly lower than those of Aleuts, and after age 45 yr the age-specific rates for Eskimos were lower than those of Indians.

Further subdivision by service unit shows a fivefold variation in age-adjusted prevalence. A combined comparison of crude rates shows significant overall variation ($\chi^2 = 150.3$, df = 8, $P < .001$), and pairwise comparisons of age-adjusted rates also showed multiple significant differences. The Yukon-Kuskokwim Delta Service Unit, whose population is ~94% Yupik Eskimo and 6% Athabaskan Indian, had the lowest prevalence at 5.6/1000, whereas the Annette Island Coastal Indian population had the highest rate at 31.1/1000 (Table 3). Most of the Aleut population is within the Anchorage Service Unit. Because the group of people noted as Aleut in the medical records contains both Aleuts and Sugpiaq Eskimos, we calculated age-adjusted prevalence rates per 1000 for subdivisions of the Aleut population. The age-adjusted rate for the Aleut residents of the Aleutian and Pribilof Islands (linguistically defined as Aleut) was 32.1 (43 cases, 2228 population). The population of St. Paul Island, one of the Pribilof Islands, had an exceptionally high rate of 69.2 (25 cases, 557 population) whereas the other Aleutian Aleuts had a rate of 20.0 ($\chi^2 = 24.0$, df = 1, $P < .001$). The rate for Aleuts residing away from the Aleutian region (predominately Sugpiaq Eskimos) was 24.4 (96 cases, 7086 population). This represents the highest rate among the Eskimo linguistic groups.

The female-to-male prevalence rate ratio among all diabetic patients was 1.6:1. The female predominance was apparent in each major ethnic group and in each age group over 25 yr, with two exceptions: Eskimos aged 25–34 yr (10 cases, male rate equal to female rate) and Aleuts aged 35–44 yr (19 cases, male rate greater than female rate). Of people with type I diabetes, there were 7 male and 8 female patients.

Table 4 shows numbers of patients by native blood quantum and type of diabetes for the 449 patients for

TABLE 2
Estimated 1985 Alaska Native populations, total diabetes cases, and age-specific prevalence rates per 1000

	All native			Eskimo			Indian			Aleut		
Age group (yr)	Population	Cases	Rate	Population	Cases	Rate	Population	Cases	Rate	Population	Cases	Rate
0–14	24,961	5	0.2	13,843	1	0.1	8231	1	0.1	2887	3	1.0
15–24	17,551	6	0.3	9512	2	0.2	5777	4	0.7	2262	0	0.0
25–34	11,526	24	2.1	5872	10	1.7	4175	7	1.7	1478	7	4.7
35–44	7300	60	8.2	3601	18	5.0	2719	23	8.5	980	19	19.4
45–54	5564	123	22.1	2853	31	10.9	1905	66	34.6	806	26	32.3
55–64	3579	170	47.5	1863	53	28.4	1203	81	67.3	513	36	70.2
≥65	3317	222	66.9	1765	64	36.3	1165	110	94.4	387	48	124.0
Totals												
Crude	73,798	610	8.3	39,308	179	4.6	25,176	292	11.6	9314	139	14.9
Age adjusted*			15.7			8.8			22.0			27.2

*Adjusted to 1980 United States all races population.

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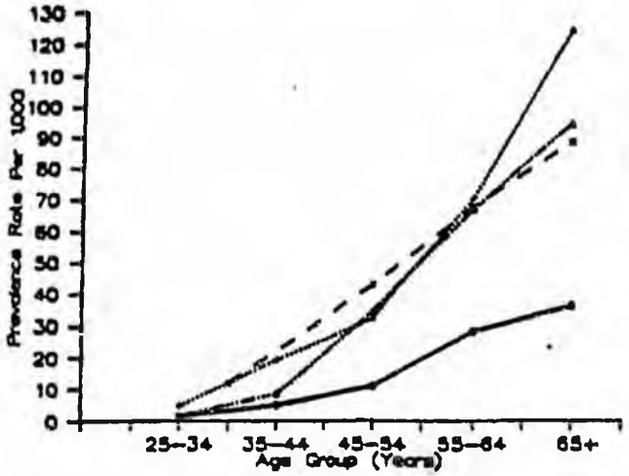

FIG. 3. Age-specific prevalence rates (per 1000) of diabetes for Alaska Natives, including Aleuts (*dotted line*), Indians (*dashed and dotted line*), and Eskimos (*solid line*), for 1985 and for all races in United States (*dashed line*) for 1980.

whom both blood quantum and type of diabetes were specified. Of type I patients, only 1 (8%) was full-blooded. Of type II patients, 267 (61%) were full-blooded.

DISCUSSION

This study constitutes the first systematic attempt to determine the prevalence of diabetes among all Alaska Natives. There are several possible limitations in the data. A tendency toward underreporting in hospital- and clinic-based studies of diabetes has been described (23–26). However, our methods of case ascertainment ensured that any diabetes-related clinic visit to a physician or midlevel practitioner and any hospitalization for diabetes in the IHS system in Alaska during a 7-yr period would have been noted. Although Alaska Native patients seeking care entirely from village health aides, the private sector, or out-of-state would have been missed, it is unlikely that this number would be large because the IHS offers the only comprehensive health care in six of nine regions and all care, including pharmacy service, is free of charge to Alaska Natives. The only regions not reporting outpatient visits to PCIS coded all outpatient visits locally and reported their diabetes cases to us. Overreporting could have occurred if local chart reviewers were not stringent in their application of the WHO criteria or if the patients accepted on the basis of insulin or oral agent management were not actually diabetic by WHO criteria. These are not likely to be large sources of error because both written and verbal instructions on diagnostic criteria were given.

Possible sources of error in the prevalence rates include inaccuracies in the 1985 estimated populations and errors in assignment of ethnicity within the medical records system. The United States census includes Canadian Indians, Canadian Eskimos, and American Indians with Alaskan Indians and Alaskan Eskimos in population data. Because patients from these groups were not included in our case definition, there may be a small underestimation of the prevalence in Indians and Eskimos, in that the denominators, but not the numerators, include immigrant individuals. Our prevalence rates are minimal estimates, because we ascertained only clinically diagnosed cases. A review of screening surveys in several populations demonstrated that for every known diabetes patient there was at least one undiagnosed case (27). Whether the same degree of underascertainment exists in this study is unknown.

It is difficult to compare prevalence rates of diabetes in different populations because of differing diagnostic criteria, case ascertainment methods, and age-standardization methods. Table 5 shows reported prevalence rates in several North American populations during the past two decades (1,11,24,28–31). Age-adjusted rates in Alaskan Indians and Aleuts are now roughly comparable to the rate for all races in the United States and slightly

TABLE 3
Prevalence rates of diabetes in Alaska Natives by Indian Health Service Unit, December 1985

Service unit	Predominant ethnic group	Number of cases	1985 population	Crude rate per 1000	Age-adjusted rate per 1000*
Annette Island	Coastal Indian	21	1107	19.0	31.1
Mt. Edgecumbe	Coastal Indian	154	10,052	15.3	27.2
Anchorage	Mixed	193	19,998	9.7	20.7
Interior†	Athabaskan Indian	78	8522	9.2	16.7
Kotzebue	Inupiaq Eskimo	47	5221	9.0	16.6
Barrow	Inupiaq Eskimo	23	3021	7.6	14.0
Bristol Bay‡	Yupik Eskimo	23	4184	5.5	10.4
Norton Sound	Inupiaq Eskimo	23	5787	4.0	6.7
Yukon-Kuskokwim§	Yupik Eskimo	48	15,906	3.0	5.8

*Age adjusted to 1980 United States all races population.
†Includes some Inupiaq Eskimos.
‡Includes some Aleuts.
§Includes some Athabaskan Indians.

TABLE 4
Native blood quantum by type of diabetes

	Eskimo		Indian		Aleut		Total	
Quantum	*n*	Percent	*n*	Percent	*n*	Percent	*n*	Percent
Type I								
<1/2	2	33	2	67	2	50	6	46
1/2–7/8	3	50	1	33	2	50	6	46
Full	1	17	0	0	0	0	1	8
Total	6	100	3	100	4	100	13	100
Type II								
<1/2	5	3	21	12	19	17	45	10
1/2–7/8	24	17	51	28	49	44	124	28
Full	116	80	108	60	43	39	267	61
Total	145	100	180	100	111	100	436	99*

Data are presented for 449 Alaska Natives with specified quantum and specified type of diabetes; 161 patients had unspecified type and/or unknown blood quantum.
*Does not add to 100% due to rounding.

exceed some North American Caucasian rates. Alaskan Eskimo rates are still lower than other rates reported for the United States. All Alaska Native rates are substantially lower than other American Indian rates.

Any interpretation of the differences in the prevalence of diabetes within the Alaska Native population must remain speculative. However, the dramatic increase in the prevalence of diabetes in many other populations after adoption of Western or urban life-styles has been well documented (6,27,32–37). With this phenomenon in mind, one possible interpretation of our data is that the groups with higher prevalence rates were the first to be influenced by Caucasian groups.

The history of Caucasian contact with each Alaska Native group has been well documented (38). The medically relevant consequences of this contact have also been chronicled (R. Fortuine, unpublished observations). The Aleuts, Sugpiaq Eskimos, and coastal Indians were heavily influenced by Russians in the late 1700s; the Inupiaq Eskimos and Athabaskan Indians experienced large-scale cultural influence in the mid to late 1800s; and the Yupik Eskimos, despite early Russian explorations, did not undergo major cultural changes until the late 1800s and early 1900s.

Of particular interest is the variation in prevalence within the Aleut and Eskimo groups. These two populations are believed to be related, as determined by linguistic and anthropologic studies (17). Both the Aleut and Sugpiaq groups are believed to have a higher percentage of Caucasian genetic heritage than other Alaska Native groups. Our data indicate that the Aleut residents of the Aleutian and Pribilof Islands have a somewhat higher prevalence of diabetes than does the Sugpiaq group. The prevalence in the latter group, which is considered by anthropologists to be an Eskimo population, is higher than those in the Yupik and Inupiaq Eskimo regions. Hence, it appears that Eskimos cannot be regarded as a homogeneous group in terms of diabetes risk and that the closely related Aleut-Eskimo group spans the range of age-adjusted prevalence rates among Alaska Natives.

The past prevalence of diabetes among Alaska Natives is not well documented; however, some historic data exist for Eskimos as previously noted. Despite major methodologic differences, it appears that the 1985 Eskimo crude rate of 4.6/1000 compared to the 1957 crude rate of 0.2–0.4/1000 indicates a true increase in the prevalence of diabetes among Eskimos. The survey published in 1957 included screening by OGTT as well as a survey of all facilities treating Alaskan Eskimos (2). The early study showed a total of 3–6 Eskimos with diabetes, depending on interpretation of the data. All were >35 yr old, yielding a rate of 0.8–1.6/1000 in that age group. The 1985 data shows a rate of 16.5/1000 in the group ≥35 yr old. The mean and median ages of the

TABLE 5
Diabetes prevalence per 1000 in several populations

	Crude rates	Age-adjusted rates		Crude rates (≥35 yr)	Refs.
All Alaska Natives 1985	8.3	15.7*	14.6†	29.1	
Alaskan Eskimos 1985	4.6	8.8*	8.2†	16.5	
Alaskan Indians 1985	11.6	22.0*	20.5†	40.0	
Alaskan Aleuts 1985	14.9	27.2*	25.1†	48.0	
United States, all races 1979–1981		24.7			1
Minnesota, Caucasians, 1979–1982			16.0†		24
Minnesota, Caucasians, 1945–1970			16.1†		28
Canada, Caucasians, 1977	15.3				29
Pima Indians 1977			341.0‡		11
San Carlos Apache 1976				249	30
White River Apache 1970				108	30
Navajo 1970				127	30
Zuni 1976	43.0				31

*Age adjusted to United States 1980 all races population.
†Age adjusted to United States 1970 Caucasian population.
‡Age adjusted to 1970 United States population.

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Alaska Native population ≥35 yr old have changed only slightly since 1960 (1960 mean and median 50.1 and 47.3, respectively; 1980 mean and median 51.7 and 49.2, respectively). Hence, it does not appear that changes in age structure account for the apparent increase in prevalence. Few studies of diabetes prevalence among Alaska Natives other than Eskimos exist. The screening study of 306 Athabaskan Indians >20 yr old published in 1969 and reinterpreted by current WHO criteria reveals a prevalence as high as 9.8/1000 (10). This prevalence could be compared with our estimated rate of clinically recognized diabetes of 14.2/1000 in Athabaskan Indians >20 yr old (62 cases, 4371 population). A 1972 screening study on St. Paul Island (Aleuts) revealed a 9.8% prevalence among those residents >10 yr old compared to our rate of 5.6% in the same age group (25 cases, 447 population) (39). Note that the past studies involved screening by OGTT whereas our rates reflect only those with clinically recognized diabetes in populations in which screening for elevated glucose is not routine. Hence, past studies should have had greater sensitivity.

Among diabetic subjects with specified native blood quantum and diabetes type, most type II diabetic subjects were full-blooded, whereas only one type I patient was full-blooded. However, a relationship between the risk of diabetes and blood quantum cannot be determined from this study, because blood-quantum distribution in the nondiabetic population is unknown, and furthermore, blood quantum is usually self-stated. However, studies of American Indians with various blood quanta have found increased prevalence of type II diabetes in full-blooded individuals (40–42).

In conclusion, our study shows that diabetes is not a rare disease among Alaska Natives. Although still less common in Eskimos than in the rest of the United States population, diabetes appears to have increased in prevalence in the last few decades. The prevalence of this disease varies widely among the ethnic groups in Alaska, and even among Eskimo subgroups there are differences. The presence of diabetes in populations in which it was previously thought to be extremely rare is of concern. Continued study over the next several years should further clarify the prevalence and provide incidence rates. In view of the emergence of diabetes as a major problem among American Indians, the documented rates in Alaska Natives justify efforts at prevention through public education about risk factors (diet, obesity, sedentary lifestyle). Early detection through increased screening and coordinated efforts at rendering the best possible care to known diabetic individuals should help prevent complications.

ACKNOWLEDGMENTS

We thank James Berner, MD, Judi Campbell, RN, Susan Carlson, MD, Wayne Carlson, MD, Douglas Hayward, CHR, Kathryn Hunt, RN, Shirley Meyer, PA-C, David Schraer, MD, Ray Shields, MD, and Linda Williams, MD, for chart review and patient reporting; Richard F. Hamman, MD, DrPH, for technical assistance and manuscript review; Bonnie Boedeker, MS, Kenneth R. Duyan, BS, and Lisa Knutson, MS, for population statistics; Alice Muller, AA, and Grady Taylor, BS, for computer assistance; and Rose Eward and Aileen Glover for manuscript typing and editing.

APPENDIX

ICD-9 codes used in computerized records search for diabetic patients

250	Diabetes mellitus
250.0	without mention of complication
250.1	with ketoacidosis
250.2	with hyperosmolar coma
250.3	with other coma
250.4	with renal manifestations
250.5	with ophthalmic manifestations
250.6	with neurologic manifestations
250.7	with peripheral circulatory disorders
250.8	with other specified manifestations
250.9	with unspecified complication
357.2	Polyneuropathy in diabetes
362.0	Diabetic retinopathy
362.01	Background diabetic retinopathy
362.02	Proliferative diabetic retinopathy
366.41	Diabetic cataract
648.0	Diabetes mellitus, classifiable to 250
648.8	Abnormal glucose tolerance, classifiable to 790.2
775.0	Maternal diabetes affecting fetus or newborn
790.2	Abnormal glucose tolerance test

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ARCTIC INVESTIGATIONS LABORATORY

Centers for Disease Control

PROGRAM NOTES

NO. 6 March 1987

DIABETES MELLITUS IN ALASKA NATIVES

Historically, diabetes was rarely diagnosed in Alaskan Natives. A 1957 survey revealed not more than 6 diabetic patients among 16,000 Alaskan Eskimos, or a prevalence of 0.4 per 1,000. A 1969 screening program, involving 306 Athabaskan Indians over 20 years old demonstrated four cases of diabetes - a prevalence of 13 per 1,000. The results of these early surveys were in agreement with the clinical impression of early IHS physicians.

The emergence of Type II diabetes in populations undergoing rapid cultural transition is a well documented phenomenon. Many American Indian tribes have experienced a phenomenal increase in the prevalence of diabetes since World War II. In Pima Indians rates changed from 0.5 per 1,000 in 1940 to 341 per 1,000 (in those over 5 years of age) in 1977. Many other tribes have experienced a rapid, although less dramatic, emergence of diabetes in recent decades. Complications, especially retinopathy, renal failure, and amputations now occur at high rates among these tribes. In the 1980s, many Alaskan health care providers perceived an increase in the number of Native diabetic patients. In view of this impression and the history of the evolution of diabetes in American Indians, the Arctic Investigations Laboratory, CDC and the AANHS, IHS launched a project to establish a diabetes registry and to determine the prevalence of diabetes in Alaska Natives as of December 1985.

The IHS computerized medical record system (PCIS) was used to retrieve the names of all patients seen for each of the diabetes-related diagnostic codes since 1979, as well as those who had had diabetes noted on their problem lists prior to 1979. The records of each patient were reviewed to verify ethnicity and diagnosis. The World Health Organization criteria for diabetes were used; these criteria require at least 2 plasma glucose values in the diabetic range, which consists of fasting values $\geq$ 140, or 2 hour postprandial values $\geq$ 200. Any plasma glucose value $\geq$ 200 in the presence of classic symptoms also verifies the diagnosis. A total of 1,585 records were retrieved and reviewed. In addition, local physicians noted 22 diabetic patients not identified by the PCIS system. A total of 610 Alaska Natives, living in Alaska as of December, 1985, met the diagnostic criteria for diabetes, and an additional 106 Alaska Natives were found to have had at least one elevated blood glucose value. Only 14 of the patients have type I diabetes.

There appears to be wide variation in the prevalence of diabetes by region and by ethnic group among Alaska Natives. The crude and age-adjusted rates are shown in Table 1. The crude rates vary from 4.6 per 1,000 in Eskimos to 14.9 per 1,000 in Aleuts. The rates for Alaskan Indians and Aleuts, when adjusted for the age structure of the population, are now similar to the US rates, while that for Eskimos is below the US rate. The crude rates in each Service Unit are displayed in Figure 1. Prevalence rates vary from 19.0 per 1,000 in the Coastal Indian population of Annette Island to 3.0 in the predominantly Yupik Eskimo population of the Bethel Service Unit. The Aleut population of St. Paul Island, within the Anchorage Service Unit, has a particularly high prevalence (45.0 per 1,000), confirming the impression of health care providers that this is a high-risk group.

Complications of diabetes are occurring.

907 / 271 - 4011

While a systematic review of all records for complications has not been done, the following complications were noted in health summaries December, 1985: amputations, 4; retinopathy, 57, including 3 blind patients; renal failure, 9, with 1 on dialysis; myocardial infarction, 5; and stroke, 12.

In view of the apparent increase in diabetes, screening for gestational diabetes was initiated in some regions in 1986. Preliminary results indicate varying rates by region, but reported rates equal or exceed the US gestational diabetes rate of 2%-3% of all pregnancies.

In conclusion, Type II diabetes is no longer a rare disease among Alaskan Natives. The prevalence among Eskimos appears to have increased 10 to 20 fold from 1957 to 1985. The emergence of this disease in populations appears to be related to dietary changes, more sedentary lifestyle, and weight gain. In view of the history of diabetes in other American Natives, a major effort at prevention through education on nutrition, exercise, and avoidance of obesity, appears warranted. Currently, the Alaska Native Health Service and Regional Health Corporations are engaging in numerous activities to optimize patient care, initiate screening programs for diabetes, and develop educational materials. In addition, the State of Alaska Epidemiology Office, through state funding and a grant from CDC, has initiated a program aimed at early detection and treatment of diabetic retinopathy and prevention of lower extremity amputations among all Alaskan diabetics. It is hoped that by prevention programs and early intervention, the occurrence of diabetes and its complications can be reduced.

For more information, regarding this report contact:

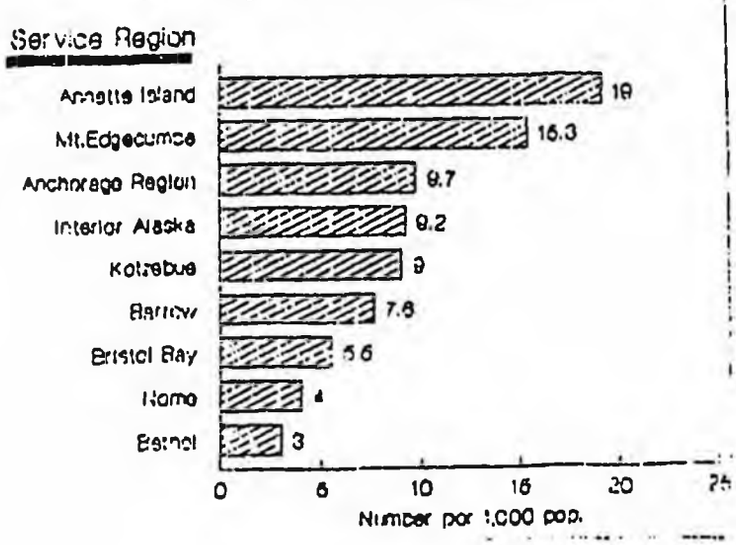
Cynthia Schraer, M.D.
Alaska Native Health Service
Box 7-741
Anchorage, Alaska 99510
or
Anne Lanier, M.D., M.P.H.
Arctic Investigations Laboratory
Centers for Disease Control
225 Eagle Street
Anchorage, Alaska 99501
Phone 271-4011

Table 1. Crude and Age-Adjusted Prevalence Rates per 1,000 of Diabetes in Alaska Natives and U.S. Populations

	Crude Rate	Age-adjusted to 1980 U.S. population-all races
All Alaska Natives	8.3	15.7
Alaska Eskimo	4.6	8.8
Alaska Indian	11.6	22.0
Alaska Aleut	14.9	27.2
U.S., All races		24.7
Minnesota whites, 3 studies		16.0 to 17.3*

* age adjusted to 1970 U.S. white population.

Figure 1. Diabetes Crude Prevalence Rates Among Alaska Natives by Service Region: December, 1986



REMINDER: Meeting on Pneumococcal Disease in Alaska, Friday, May 8, 1987 beginning at 8:00 A.M. at the Sheraton Anchorage Hotel. Contact Dr. Michael Davidson, (907) 271-4011 for additional information.

11 of 11

March 14, 1990

Dear Concerned Elected Official:

Please evaluate the enclosed letter. It is the result of an honest effort to find a common ground for the people of Alaska. It is being distributed to six papers around the state, including the *Tundra Drums* and *Tundra Times*.

I must be honest to admit that because of my strong feelings on this matter, the original drafts were composed with considerable anger. It was anger at some elected officials, not our perceived 'opponents'. Nevertheless, I hope that the letter is received in the constructive manner in which it is intended.

If you wish to contact me, please don't hesitate to call- 745-4358.

Respectfully,

Bob

Robert H. Parkerson
HC 02, Box 7630-A1
Palmer, Alaska 99645

An Open Letter to Alaska's Elected Officials:

On Saturday March 10, I listened to renewed conflict over access to Alaska's wildlife resources! The occasion was a teleconference held by the House Resources Committee. Again, Alaskans are arguing over rural priority for subsistence use of these resources. The contestants debated the issue of an amendment to the Alaska Constitution to achieve this priority.

Three major factors distract us from the real issue:

(1) The Alaska National Interest Lands Conservation Act (ANILCA) creates the threat that the federal government will manage Alaskan resources on federal lands if the state doesn't provide for preferential access to fish and game for "rural" citizens. This threat should offend and anger every Alaskan. Federal management is undesirable, but management jurisdiction can be settled after Alaskans fairly resolve the resource conflict.

(2) Another factor is the ease with which the conflict can be twisted to appear to be racial. The issue is <u>not</u> racial... though heated arguments quickly become ugly and racial.

(3) Partisan politics clouds the issue. It isn't partisan, though some partisans would make it so. Republican Senator Ted Stevens says the federal threat is our legislature's problem, and refuses to try amend ANILCA to keep Federal authorities from dictating state policy. That Act has been amended nine times. The issue is not partisan, but Democrat Governor Steve Cowper says the Democrats will solve the problem... then promotes a constitutional amendment which divides the people of Alaska. He furthermore will not challenge ANILCA in court. If I recall correctly, as a new governor he pledged to pull Alaskans together to solve problems.

Each side of this issue has valid concerns. Each has experienced threats from other Alaskans who are viewed as opponents in this conflict... However, there was one common thread underlying the comments of all participants in the teleconference. **The fish and game resources of Alaska are important to all Alaskans;** Inupiats, Aleuts, Indians, Caucasians, Blacks, Orientals, urban and rural dwellers... all Alaskans. We all value the resources and need them for the survival of our Alaskan way of life. Subsistence use of fish and game is an <u>Alaskan tradition.</u> Subsistence must continue!

We should draw together to solve Alaskan's subsistence needs. Instead of fighting over shares of the 'resource pie', we must secure more 'resource pies'.... more moose, more salmon, more timber, more caribou, more browse... more resources to satisfy the needs of all Alaskans. Professional managers can dramatically increase all

renewable resources... fish, game, timber. They are trained in these skills They didn't train to become bureaucrats. They trained to become professionals: fish biologists, game biologists, foresters, research scientists. State government made them into bureaucrats. Let others be the bureaucrats, who deal with politicians, public relations and administration. Bureaucracy interferes with the work of our trained managers!

One brief example illustrates the seriousness of bureaucratic interference. Consider a dedicated former" moose biologist" who recently retired from the Alaska Department of Fish & Game. When discussing this problem, he stated many times, "Not once was I instructed to produce more moose!". What was he doing during his years of service to the Alaskans? He tried to manage moose, but also, he was forced to avoid offending one politician or another, defend his decisions to a noisy self proclaimed moose 'expert', or argue with a reluctant state forestry or habitat official about producing moose browse. This situation is common to all natural resource managers in the state Ask a practicing forest manager what needs to be done to enhance Alaska forest production He'll tell you. Ask him why it's not being done and you will hear of this same interference. You'll hear why there are limited resources. The resource conflict, as serious as it is, is a symptom of the real problem... a breakdown in professional resource management.

Only you, elected officials, have the authority to solve this serious problem. Change the way our renewable resources are managed. Support our professional managers. Free them from being bureaucratic political pawns. Painful reorganization of agencies will be necessary Special interest will lose control. Those who are nourished by conflict will suffer, but the resources and Alaskans will benefit. This is your challenge! This is your opportunity!

What can be done? Remove political manipulation from management of Alaska's renewable resources. Oregon's and Missouri's system might provide some methods. Ask for help from the people and organizations who testified at the teleconference. You will find responses from talented Alaskans who have genuine interests in providing the needed resources for Alaskans. Don't polarize Alaskans! Your special interest should be all the people of Alaska.

Robert H Parkerson, Ph. D.
Former Director Alaska Plant Materials Center
Palmer Alaska

Jul. 789-7853

MARCUS JENSEN'S TESTIMONY BEFORE HOUSE RESOURCE COMMITTEE,

STATEWIDE HEARING ON H.B. 74, 88 and bill on urban subsistence

MR. CHAIRMAN: MY NAME IS MARCUS JENSEN AND I HAVE LIVED IN ALASKA OVER 60 YEARS. MY GRANDFATHER WAS IN NOME IN 1898, and HIS SON THOMAS SPENT MOST OF :HIS LIFE IN NOME. THOMAS JENSEN SERVED IN THE TERRITORIAL LEGISLATURE IN 1925, SERVED ON THE FIRST ALASKA GAME COMMISSUON, I HAVE RAISED MY FAMILY HERE IN ALASKA AND AM ONLY SAYING THIS TO SHOW THAT OUR ROOTS ARE PRETTY SOLID IN ALASKA. I AM INTERESTED IN WHAT HAPPENS TO OUR STATE ANDTHE DIRECTION IT TAKES.

I STARTED SERVING IN THE ALASKA TERRITORIAL LEGISLATURE IN 1949. I SERVED IN BOTH THE HOUSE AND SENATE, AND THE LAST TERM WAS IN 1962. I served on MANY COMMITTEES THAT HAD NATIVE MEMBERSHIP. WE SAT AS ONE PEOPLE, WE WORKED TOGETHER IN HARMONY AND SOLVED OUR PROBLEMS. THE WORD "SUBSISTENCE" WAS NEVER MENTIONED. EVERYONE WENT ABOUT THEIR BUSINESS AND TOOK CARE OF THEIR PERSONAL NEEDS IN THEIR OWN WAY.

FISH IS ONE OF THE BIGGEST FOOD SUPPLIES FOR ALL ALASKANS. OUR BIG RIVERS USUALLY CARRY THREE OR FOUR DIFFERENT SPECIES FROM SPRING THROUGH FALL. CERTAINLY DURING THAT TIME A PERSON COULD SET ASIDE A FEW FISH FOR HOME USE. from MY INFORMATION: MOST VILLAGES SMOKE OR FREEZE THEIR FISH FOR THEIR HOME SUPPLY. I THINK IF EACH VILLAGE HAD SIZEABLE CANNING EQUIPMENT IT WOULD ENLARGE THE DIFFERENT POSSIBILITIES OF USING THE FOOD.

ALASKA :IS MADE UP OF MANY TYPES OF HABITAT. PERSONALLY I HAVE HUNTED WITH A PACKTRAIN ABOVE THE ARCTIC CIRCLE, SPENT OVER TWENTY YEARS HUNTING AND GUIDING IN THE ALASKA RANGE. EACH YEAR I HAVE HUNTED AND GUIDED IN SOUTH-EASTERN ALASKA.

I WOULD LIKE TO GIVE THE COMMITTEE SOME OF MY OBSERVATIONS AS TO WHY THESE BILLS ARE NOT NEEDED. LET'S TAKE KODIAK ISLAND/ ANYONE FAMILIAR WITH THAT AREA KNOWS THAT THEY HAVE ABUNDANCE OF FISH AND DEER. THE SOUTHEAST PANHANDLE ACTUALLY IS ONE COMMUNITY BECAUSE THE AREA AND PEOPLE ARE ALL

LIVING IN THE SAME ECONOMY - FISHING, LUMBERING, TOURISM, AND PLENTY OF THE FOOD RECOURCES FOR EVERYONE.

THE ARCTIC CARIBOU HERD HAS CERTAINLY TAKEN CARE OF THAT AREA, AND WILL CONTINUE TO DO SO, BECAUSE WEATHER AND DISTANCE ALLOWS VERY LITTLE URBAN PRESSURE.

THE NOME COASTLINE, WHERE WE ARE TALKING ABOUT MARINE MAMMALS, HAS NO COMPETITION.

TODAY ALL THE VILLAGES ON THE BIG RIVERS WHOSE PEOPLE ARE FISHERMEN HAVE LARGE INCOMES BECAUSE OF THE HIGH PRICE OF THE FISH TODAY. A GREAT NUMBER OF THEM MAKE $100,000 OR MORE A YEAR, AND ARE ENJOYING A MUCH HIGHER MIXED DIET THAN THEY COULD YEARS BEFORE.

ONE THING THAT IS HARD FOR ME TO COMPREHEND IS WHY NATIVE LEADERSHIP IS PRESSING FOR A SUBSISTENCE BILL WHEN THEY HAVE FORTY FOUR MILLION ACRES OF PRIVATE LAND TO HUNT ON. I LOOK BACK ON HOW MANY ANIMALS WE USED TO TAKE OUT OF ONE SMALL VALLEY AND THEN THINK OF THE FORTY FOUR MILLION ACRES!

I WOULD ASK THIS COMMITTEE TO NOT PASS OUT ANY OF THESE BILLS. THEY ARE NOT NEEDED AND WILL ONLY CAUSE FRICTION AMONG OUR PEOPLE.

IT MIGHT BE OF INTEREST TO THE COMMITTEE THAT ALASKA IS THE ONLY STATE IN THE UNION WHERE THE FEDERAL GOVERNMENT HAS PASSED A LAW THAT EFFECTIVELY SAYS "YOUR CONSTITUTION IS WRONG, AND WE ARE GOING TO TELL YOU HOW TO RUN YOUR STATE!" THIS SEEMS SO WRONG THAT TO SATISFY MYSELF I DID A LITTLE RESEARCH, AND HERE IS WHAT I HAVE FOUND:

THE FEDERAL GOVERNMENT WAS ASKED TO COME IN AND CREATE LEGISLATION DEALING WITH THE ALLOCATION OF SUBSISTENCE. GOVERNOR HAMMOND in 1978 TESTIFIED BEFORE A FEDERAL HOUSE SUBCOMMITTEE, AND I QUOTE: "THE ALLOCATION OF RESOURCES TO BE CONSUMED AMONG THOSE WHO WOULD COMPETE FOR THE RIGHT TO CONSUME THEM IS A DIFFICULT PROBLEM AT BEST. I WOULD HOPE THAT THIS CONGRESS ESTABLISHES THE PRIORITY OF SUBSISTENCE USES WHERE THERE IS A CONFLICT. I

"I BELIEVE THAT THIS IS A LEGITIMATE SUBJECT FOR LEGISLATION, AND HOPE THAT THIS PRINCIPLE, WHICH HAS BEEN STATE POLICY FOR SOME TIME, MIGHT BE ENACTED INTO FEDERAL LAW." unquote

IT IS OBVIOUS THAT THIS FEDERAL LEGISLATION, TITLE 8 SUBSISTENCE, WAS DEVELOPED WITH THE HELP OF GOVERNOR HAMMOND'S STAFF AND THE NATIVE LEADERSHIP. WHEN THE LEGISLATION FIRST APPEARED IN PUBLIC IT WAS A REAL BOMBSHELL!

I AM FOR THE RURAL AREAS OBTAINING AS MUCH FOOD SUPPLY AS POSSIBLE FROM THE LAND. IT CAN BE DONE EFFECTIVELY BY METHOD AND MEANS, SEASON AND BAG LIMIT.

MARCH 10, 1990

Ric Davidge *Alaska Public Policy Consultant*

(907) 536-1912 FAX (907) 562-1824

March 13, 1990

Alaska State Legislature
PO Box V
Juneau, Alaska 99811

Legislator.

As most of you know I was the Chairman of the Federal Subsistence Resource Management Program Task Force in 1986 that wrote the federal plan. Since that time I have consistently followed the federal and state subsistence issues and remained a student of legislation and court decisions.

Attached, for your use and review, is a DRAFT Subsistence Bill that could pull you out of this mess. This legislation recognizes the uniqueness of federal lands in Alaska, the problems of Title VIII and the responsibilities and complexities of concurrent legislative jurisdiction in the management of fish and wildlife resources on federal lands.

This legislation also provides a definition of rural, consistent with existing federal law and programs and allows that definition to be modified by the US Census Bureau consistent with their normal delineation processes nationally.

This legislation will only apply to federal lands and not to state or private lands in Alaska as a Constitutional amendment would.

This legislation will not change anything significantly. The federal agencies are in the process of wrestling with the Kinitzi federal court decision as it applies to the definition or rural and the Secretary of Interior is considering an amendment to ANILCA to resolve that problem.

The passage of this legislation is consistent with Title VIII and its legislative history as it is constructed from Title VIII.

This legislation avoids a Constitutional amendment and the political problems I know most of you wish to avoid.

Can the State Legislature pass a law that only affects how it (the State) functions within its responsibility under concurrent legislative jurisdiction over federal lands? I believe it can in

light of the fact that federal lands within a state must be managed consistent with federal law and that when there is a conflict between federal and state law it is the federal law the prevails unless that federal law is determined unconstitutional by the US Supreme Court.

I suggest you present this as a Committee alternative. Hold a teleconference and find out what level of support or opposition you have. The most important new positions taken at the teleconference last Saturday are the number of sportsmen's groups supporting federal management rather than a Constitutional amendment.

I hope this is constructive. I know it will generate some opposition based on growing expectations of some Native leaders, but I believe it can prevail with solid legislative management.

Best wishes,

Ric Davidge

PROPOSED SUBSISTENCE LAW

FINDINGS

The Legislature finds and declares that -

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the federal lands and by Alaska Natives on Native lands is essential to native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation on Federal lands in Alaska is unique in that; federal law mandates a subsistence preference on federal lands consistent with the provisions of The Alaska National Interest Land Claims Settlement Act (ANILCA), and fish and wildlife resources on federal lands are managed cooperatively by federal and state agencies under concurrent legislative jurisdiction.

(3) fish and wildlife habitat on federal lands is under direct federal management while fish and wildlife resources are under concurrent jurisdiction.

(4) with the passage of ANILCA the Congress of the United States found that the State of Alaska was competent to manage these resources and because of the State's management experience and management resources the State was determined as the appropriate lead agency for the management of fish and wildlife resources on federal lands.

(5) all management of fish and wildlife resources on federal lands must be consistent with federal law. In the event of federal/state law conflicts it is federal law the prevails.

(6) ANILCA does not define "rural" or "urban" resulting in significant difficulty in implementing a coordinated and cooperative management program

POLICY

It is hereby declared to be the policy of the Legislature that;

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the federal lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes of each of the federal Conservation System Units established, designated, or expanded by or pursuant to title II through VII of ANILCA, the purpose of this Act is to provide the opportunity for rural residents engaged in a subsistence way of life to do so;

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the federal lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such

population for nonwasteful subsistence uses shall be given preference on the federal lands over other consumptive uses; and

(3) except as otherwise provided by this Act State agencies in managing subsistence activities on the federal lands and in protecting the continued viability of all wild resources in Alaska, shall cooperate with adjacent public or private landowners and land managers.

PREFERENCE FOR SUBSISTENCE USES

The taking on federal lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on federal lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on federal lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

DEFINITIONS

As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; and for customary trade.

For the purposes of this Act, the term -

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses -

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

(3) "rural" means any community whose population is customarily or traditionally dependent on the harvesting of fish and wildlife resources on federal lands with a population not greater than 2500 or as delineated by the US Census Bureau.

COOPERATIVE AGREEMENTS

The Governor may enter into cooperative agreements or otherwise cooperate with Federal agencies and other land owners including private land owners to effectuate the purposes of this Act.

ALASKA OUTDOOR COUNCIL, INC.

[redacted]

P.O. Box 34097
Juneau, Ak. 99803

Jan. 26, 1990

The Honorable Steve Cowper
Governor, State of Alaska
Box A
Juneau, Ak. 99811

Dear Governor Cowper:

We feel the time has come where we must express some deep concerns over the direction the course of events has taken since the State's prejudicial law allowing some citizens access to common property resources, while barring others, was struck down in the McDowell case. The lack of leadership by our delegation in Washington is especially disheartening, while your statements at the Egan Forum Friday, January 19, at least offer some hope fo. those of us who have struggled all these long years to correct what we knew to be a grievously discriminatory situation.

There are a couple of factors though which have finally caused us to voice concern hoping some corrective action may be taken. To date those most closely involved with this issue within state government ranks have consistently held forth the solution to our current dilemma must be one which includes the blessing of only one segment of Alaska's population. We feel this is an unfortunate line of thinking and sincerely hope such is not the case.

Secondly, we feel this is not a Democratic nor a Republican issue; however, we do feel it is an issue which deserves a Democratic solution. In short we feel it would be entirely antithetical to Democratic principles if we were to permanently affix a discriminatory bias favoring one portion of Alaska's populace over another. If we are ever going to heal the scars which have been induced by this and other divisive issues, we must begin by finding solutions which treat citizens fairly and equally.

We are certainly not opposed to Alaskans being accorded the opportunity to follow a lifestyle which necessitates living off of wild resources; however, any regulatory or statutory provision which recognizes such a lifestyle as a preference among beneficial uses must be crafted in such a way so as to provide the same priority access for any citizen who chooses to so live, regardless of where they reside. Further, we must

strive to avert escalating any further divisiveness, racial or otherwise, by insuring all groups will be treated equally.

Before closing, we would like to offer a couple of what we feel to be constructive suggestions. One, we should move to avoid any chaos which will lead to problems with federal management by immediately convening the Boards of Fish and Game to promulgate reasonable regulations. It is our understanding Secretary of Interior Lujan feels any gesture on our part to begin the long process of resolving this issue will assist him in holding off on pre-empting state management. The second item which we feel must be accomplished would be the amendment of ANILCA either legislatively or through a suit filed by the State.

Thank you for taking the time to contemplate these salient points. As our Governor, we look to you for leadership in resoloving this issue and hope all groups with a vested interest will be brought into the process. We further look to you in upholding the public trust which should be central to any longstanding and meaningful solution to this ongoing controversy.

Sincerely Yours,

Ed Grasser

Ed Grasser, Director
Legislative Affairs

cc: Tim Kelly, Pres., Alaska State Senate
Sam Cotten, Speaker, Alaska House of Rep.
Sen. Bettye Fahrenkamp, Chair Senate Resources
Rep. Curt Menard, Co-chair House Resources
Rep. Cliff Davidson, Co-chair House Resources
Don Collingsworth, Commissioner ADF&G

UNITEDFISHERMENOFALASKA

TESTIMONYONSUBSISTENCE

March10,1990

My name is Cheryl Sutton and I will be speaking on behalf of the United Fishermen of Alaska as their Subsistence Committee Chair.

Commercial fishermen, and many other Alaskans, stand to suffer great injury if the subsistence issue is not settled in a manner conducive to sound fish and game management practices and non-disruptive allocative priorities. UFA does not support the concept of attempting to settle this issue by means of a constitutional amendment.

UFA has produced an issue paper on subsistence. I would like to briefly state our position and make other comments.

UFA supports a subsistence-based use of fish and game populations in Alaska, but believes that such uses must be bound at historical levels.

The following areas need to be addressed and answers to the questions sought out by the legislature.

- The federal government's jurisdiction over fish and game populations both on federal lands and state lands and waters needs to be clearly defined. For example, does the state or the federal government have jurisdiction over anadromous fish harvested in state waters but spawning within federal areas?

- The consequences or benefits of a "federal" takeover for subsistence management need to be delineated for the public. The public should not be forced to stand in fear of a concept they do not understand.

- The legislature must consider that "rural" will still not be defined in the adoption of the proposed constitutional amendments. There will be no federal definition for rural.

- How will the state handle the Ninth Circuit's ruling relative to the Kenaitzes and its subsequent classification of the Kenai area as rural?

- More clear policy guidance must be provided for the Boards of Fisheries and Game and other regulatory agencies creating subsistence regulations.

- The state must consider the economic and social implications of further reducing the cash economies of coastal Alaska communities through making them more subsistence dependent. The very people these constitutional amendments are designed to help may be harmed more than helped.

- The *commercial* sale of subsistence harvests is increasing. The potential for major growth of subsistence harvests being sold under "customary trade and barter" is very likely. This problem must be closely examined and appropriate safeguards taken to prevent its occurrence.

- The definition of subsistence "use" and subsistence "user" needs to be clarified for the public as it relates to the implementation of Title VIII, Section 804 of ANILCA which affords priority.

- An enforceable and mutually protective definition for priority as it relates to competing fishery uses must be developed.

UFA does not believe that a constitutional amendment is the solution to this problem. We believe the solution is many faceted; however, until answers are provided to the questions we have brought forward, an equitable solution will not be found. We have offered our assistance to work with the administration and legislature, as well as other affected groups. We continue to offer that assistance. The solution to the subsistence issue will not be found unless all parties work together to formulate the best plan possible. This plan should include changes on both the state and federal levels if we are to see a long-term solution.

Thank you for the opportunity to testify. I would be glad to FAX a copy of this testimony and the UFA issue paper if the committee would so desire.

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611

February 6, 1990

Distinguished Members of the
Alaska State Legislature
Juneau, Alaska

Dear State Legislator:

I am pleased to convey to you the enclosed document which represents the Alaska Federation of Natives' official Position Statement on Subsistence.

The Federation's position statement is the result of lengthy analysis and evaluation by the Native community of options available in response to the December, 1989 Alaska Supreme Court decision in McDowell v State of Alaska.

The AFN Board of Directors, representing statewide Native corporations, non-profit associations and villages approved and adopted the position statement at its February 1, 1990 meeting.

AFN's preferred solution to the current legal situation is a constitutional amendment. AFN is committed to working with Governor Cowper and the leadership of the Alaska Legislature to see if there is both acceptable language and support to go forward with this approach. AFN is convinced that if a constitutional proposal is advanced by the Governor and the Legislature and eventually can be voted upon by Alaskans it will pass with overwhelming support.

Please feel free to contact me if you need clarification on our position statement. AFN looks forward to working with you as your deliberations continue. Thank you.

Sincerely,

Julie Kitka
President

alaska federation of natives, inc.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611

POSITION STATEMENT ON SUBSISTENCE

As they have for generations, Alaska Natives continue to depend upon hunting and fishing and gathering to obtain food to feed their families.

Hunting, fishing and other subsistence activities remain the linchpin of traditional Alaska Native culture and Alaska Native spiritual values.

For almost a century the United States Congress has consistently recognized the necessity to protect Alaska Native subsistence activities, the most recent expression of this important national policy being Title VIII of the ANILCA of 1980, which establishes hunting and fishing for subsistence uses by Alaska Natives and other residents of rural villages as the priority use of Alaska fish stocks and game populations.

For more than a decade, successive Alaska legislatures and administrations have enacted and administered legislation intended to implement Congress's subsistence policy.

In December 1989, in McDowell v State the Alaska Supreme Court held that the legislature's attempt to implement Congress's subsistence policy violated Article VIII of the Alaska Constitution.

The McDowell v State decision threatens the State's ability to continue to regulate the taking of fish and game on all lands and within all waters in Alaska.

Any solution to this situation must be consistent with the Congressional policy that Alaska Natives and other rural subsistence hunting and fishing activities are the priority use of Alaska's fish stocks and game populations.

We believe that if Alaskans are going to solve this problem:

(a) an amendment to the Alaska Constitution to enable the legislature to enact and the administration to implement a rural subsistence priority which protects customary and traditional use of fish and game by Alaska Natives and other rural residents is the preferred solution; and

(b) AFN is committed to working with the Governor and Legislative leadership in considering other solutions which meet AFN's policy goals.

Approved and adopted by the Board of Directors, February 1, 1990.

RURAL ALASKA RESOURCES ASSOCIATION
P.O. Box 200908
Anchorage, Alaska 99520
(907) 279-2511

MEMBERS:

Aleutian/Pribilof Islands Association, Inc.

Bristol Bay Native Association

Central Council, Tlingit & Haida

Copper River Native Association

Kawerak, Inc.

Kodiak Area Native Association

Maniilaq Association

The North Pacific Rim

North Slope Borough

Nunam Kitlutsisti

Tanana Chiefs Conference, Inc.

Tyonek, Native Village of

ASSOCIATE MEMBERS:

Koyukon Development Corporation

Bering Sea Fishermen's Association

RurAL CAP STAFF:

Bob Polasky

February 20, 1990

RECEIVED FEB 21 1990

DEAR BUSH CAUCUS MEMBERS:

Please find the enclosed position statement by the Rural Alaska Resources Association. We believe that the immediate solution is to amend the State of Alaska's Constitution. We further believe that the subsistence priority is very critical to the well-being of the Native people.

At this point of time we do not want to amend ANILCA nor do we want to see any permit system for the subsistence users.

Sincerely,

RURAL ALASKA RESOURCES ASSOCIATION

Matthew Iya, Chairman

Enclosure

MI:ct

RURAL ALASKA RESOURCES ASSOCIATION
P.O. Box 200908
Anchorage, Alaska 99520
(907) 279-2511

MEMBERS:

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Bristol Bay Native Association

Central Council, Tlingit & Haida

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Kawerak, Inc.

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Nunam Kitlutsisti

Tanana Chiefs Conference, Inc.

Tyonek, Native Village of

ASSOCIATE MEMBERS:

Koyukon Development Corporation

Bering Sea Fishermen's Association

RurAL CAP STAFF:

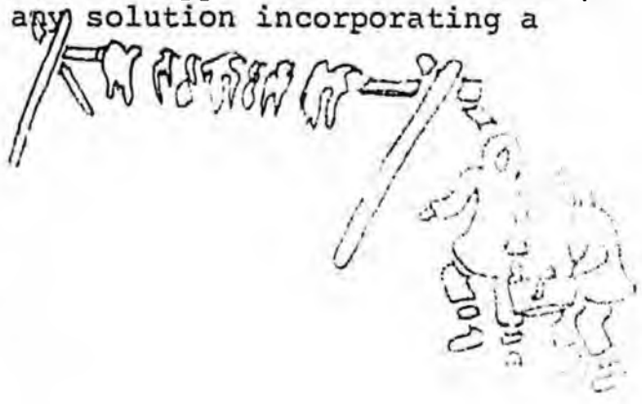
Bob Polasky

RARA POSITION STATEMENT IN REGARDS TO THE McDOWELL DECISION

It is the position of the Rural Alaska Resources Association that the State Supreme Court Decision in McDowell v. State of Alaska of December 22, 1989, seriously jeopardizes the subsistence rights of Alaska Natives. The McDowell decision places the State Subsistence law out of compliance with the Alaska National Interest Lands Conservation Act (ANILCA) which requires a subsistence preference for rural Alaskans.

It is RARA's position that the preferred solution to the McDowell decision is to recommend that the State's Constitution be amended to include specific language providing for a subsistence priority for Alaska Natives in recognition of their culture. Such an amendment would insure that the customary and traditional rights of Alaska's Native people are protected. A priority amendment which includes a priority for Alaska Natives could also provide, through other language, equal subsistence preferences or priorities for non-Native rural Alaskans. It is RARA's position that a subsistence preference in the State Constitution be sought with a "Native Preference" as our first concern to insure current and future generations of Alaska Natives maintain their customary and traditional rights to subsist.

It is also our position, that we would oppose efforts to amend ANILCA as an initial approach to a solution, and also would oppose any solution incorporating a permit system.



ALASKA OUTDOOR COUNCIL, INC.

RECEIVED

March 1, 1990

Rep. Cliff Davidson
Pouch V
Juneau, Alaska 99811

Dear Cliff:

Attached hereto is a MEMORANDUM ON FISH AND WILDLIFE MANAGEMENT which constitutes the formal and official position of the ALASKA OUTDOOR COUNCIL, INC. on the Subsistence issue. This position paper was extensively reviewed by the AOC Board of Directors, in consultation with recognized fish and wildlife managers, before the AOC Board passed it. We believe it is the best solution to the problems facing the State of Alaska regarding the Subsistence issue.

The AOC is an organization representing approximately 55 separate state outdoors clubs and associations throughout Alaska with some 11,000 members, and therefore this paper reflects the views of a large segment of the outdoor community.

Recently, the Governor indicated that he would support a Constitutional Amendment to Alaska's Constitution to authorize a rural preference for the taking of fish and wildlife in Alaska. We believe such an action would be very divisive to the people of the State and oppose such a procedure. In this day and age when the very concept of hunting is under attack from certain groups, we believe all hunters and fisherman, and other out-of-doors people need to stand together, and not be divided over who should, or should not, receive preferential rights to take fish and wildlife resources in this State. We urge you to consider the enclosed position paper, and get involved in supporting the procedures it outlines. We would be happy to discuss it further with you at your convenience.

For the AOC Board of Directors,
I am,
Sincerely,

Wayne Anthony Ross
Attorney at Law

Affiliated with National Rifle Association

MEMORANDUM ON FISH AND WILDLIFE MANAGEMENT

The State Constitution requires that all fish and wildlife resources be managed for "common use."
Alaska Constitution, Art. VIII, §§ 3, 15 and 17.

The Alaska Supreme Court ruled in McDowell v. State, that this is an important constitutional right of all Alaskans and requires that all Alaskans have equal access to Alaska's fish and wildlife resources. The State of Alaska cannot discriminate on the basis of residency in allocating access to this important resource.

The State Constitution requires that all fish and wildlife resources be managed on the principle known as "sustained yield."
Alaska Constitution, Art VIII, § 4.

The Alaska Constitution requires Alaskans to manage fish and wildlife resources to insure that Alaskans can harvest these resources each year. The term "sustained yield" is a recognized biological principle. Proper fish and wildlife management should focus on resources, not on politics or sociology.

The State of Alaska must be allowed to manage its fish and wildlife resources. The Federal Government should not be allowed to manage fish and wildlife on Federal lands in Alaska.

A comprehensive fish and wildlife management system administered by Alaskans using biological principles is absolutely essential for the well-being of fish and wildlife resources in this state. Established management techniques can ensure that there are more fish and wildlife resources for all Alaskans.[1]

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[1] For example, The Anchorage Times, Wednesday, February 7, 1990, contained an article entitled "Proper Resource and Game Management Will Alleviate Moose Problem." The article was written by Jim Page, a forester with the Alaska Department of Natural Resources, Division of Forestry. Mr. Page stated that "[i]n 1983 Swedish hunters harvested 232,000 moose compared to an Alaskan hunter harvest of 10,000 . . . .Sweden attributes their great moose harvest, in part, to intensive forest management".

At the present time, Alaska is not fully committed to such intensive management programs. Alaska can satisfy the Alaska Constitution, and its citizens' desire for Alaska's fish and wildlife resources, by committing itself to intensive management programs.

Title VIII of ANILCA mandates Federal management of fish and wildlife resources on Federal lands in Alaska if Alaska's subsistence law does not conform with the provisions of ANILCA. ANILCA mandates subsistence uses be granted on the basis of residency **only.**[2] This directly conflicts with the provisions of Alaska's Constitution, Art. VIII, §§ 3, 15, & 17. The Alaska Supreme Court has held that a preference based on residency violates these provisions.

No other state in the Union operates under the immediate legislative threat of a Federal take-over of its fish and wildlife management. Indeed, local management of fish and wildlife was one of the cornerstones of the statehood movement.

There are three things the State of Alaska should do to resolve the problem of threatened Federal takeover.

First, the Legislature should repeal the laws provicing for rural subsistence[3] preferences and allow the Boards of Fish and Game to manage Alaska's fish and wildlife resources in conformity with Alaska's Constitution, using scientifically recognized Fish and Wildlife management techniques, including intensive management and resource harvesting governed by seasons and bag limits, methods and means. The Legislature should pass legislation or resolutions necessary to implement such management.

Second, the State should notify its Congressional delegation of its management program, and ask the Congressional delegation to seek changes in ANILCA recognizing this State's right to manage its fish and wildlife resources under such a program.[4]

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[2] ANILCA does not permit access to be regulated on need or reliance.

[3] Subsistence is a misnomer; it is not a method for putting food on the table and has nothing to do with need. It is a chosen lifestyle. It is not the government's role to ***preserve*** any particular lifestyle. Instead the government should allow for individual choice and do nothing to discourage those lifestyle choices.

[4] While there have been warnings concerning the amendment of ANILCA, it should be remembered that ANILCA has been amended nine (9) times since its enactment with no major problems.

Third, the State should initiate litigation in the Federal Courts to prohibit the Federal Government from interfering with State management of fish and wildlife resources on Federal lands in Alaska.

None of these remedies are mutually exclusive. That is, the State can do one, the other, or all, at this time.

Those people who utilize Alaska's fish and wildlife resources for personal consumptive use must be reassured that the State will ensure that they will continue to have access to these resources within Constitutional limitations.

Because in some areas of the State, personal consumptive uses of fish and wildlife may be more prevalent, some people believe that the State is unwilling or unable to recognize this lifestyle. They believe that only the Federal government will allow this and lifestyle to continue.[5]

Alaskan State Officials must demonstrate that Alaskans, working together, can solve our own problems, without Federal intervention.

The Governor should immediately call the state's Boards of Fish and Game into session to set seasons and bag limits, methods and means, for the upcoming fishing and hunting seasons. Once Alaskans see that they will have a reasonable opportunity to harvest fish and wildlife resources next season, some of their anxiety should be diminished.
Again, however, the decisions of the boards must be based on sound management principles, and not based on politics or socioeconomics.

The Boards of Fish and Game should continue to set fishing and hunting seasons based on sound wildlife and fish management principles and the biological principle of sustained yield.

Seasons and bag limits, methods and means should be utilized to ensure proper fish and wildlife management, sustained yield, and

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[5] Again, it is not government's role to ***preserve*** any particular lifestyle. It also bears mentioning that the Alaska Native Claims Settlement Act (ANCSA) provided for transfer of 44,000,000 acres of land, and $960,000,000 to the Native peoples of Alaska and in exchange, ANCSA abrogated all native hunting and fishing rights. Thus, the claim arising from some Native groups that subsistence rights are somehow an aboriginal right of the Native people of Alaska, should not be given serious consideration.

access to the fish and wildlife resources to all types of uses, i.e., commercial, non-consumptive uses, and consumptive uses. Personal consumptive use should remain on an equal footing with the other uses.

During periods when fish and/or wildlife stocks are low in a particular area, the Boards can regulate fish and wildlife harvest using the traditional methods of seasons and bag limits, methods and means, in conformity with the Alaska Constitution, to ensure that local residents still have a fair opportunity to harvest fish and wildlife resources in areas close to their residence.[6] In addition, the State should designate an area as an "Intensive Management Area" to restore fish and wildlife populations to sufficient numbers in order that liberal seasons and bag limits can be resumed as soon as possible.

Active and intensive management will allow all Alaskans to live the lifestyle they would like, relative to fish and wildlife resources.

ANILCA must be changed to clearly allow the State to solve its own problems.

Alaska should be allowed to handle its own problems without unnecessary Federal interference. The above outlined plan would be one method of doing so.

The Congressional delegation should be asked to obtain passage of the necessary changes in ANILCA.

The Governor can and should enlist the support of other governors for Alaska's position on these changes. Members of the legislature can and should enlist the aid of other legislatures in supporting Alaska's position also.

The argument is simple. If the Federal government assumes management of fish and wildlife resources in Alaska, the same thing could happen in other states having any Federal inholdings. The cost of Federal management of Alaska's resources would be borne by the taxpayers of the other states. Finally, under a Federal take-over, Alaskan fish and wildlife resources would not be managed for

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[6] It should be remembered that Native people have been awarded 44,000,000 acres of land which is held in fee simple. Like any landowners Native people can and do refuse to allow others to hunt on, and fish on, their land during seasons established by the Department. This alone can serve as a way to limit competition for fish and game stocks, although it is recognized that at present, enforcement of trespass laws are difficult.

all Americans, but, under the terms of ANILCA, these resources would be managed only for the rural subsistence users living in Alaska. How many non-Alaskans would be willing to pay for that program?

ANILCA has been amended nine times since 1980. Our Congressional delegation should not have trouble doing it one more time, if the State's plan is a reasonable one.

<u>The State of Alaska should be prepared to litigate the question of Federal Management, if it is unsuccessful in a modification of ANILCA.</u>

The State should immediately initiate litigation in the event that the Congressional delegation is unable, or unwilling to obtain the necessary changes in ANILCA. The Alaska Constitution, including the "common use" and equal treatment provisions, was approved by Congress at the time of statehood. The threat of Federal take-over management, through the ANILCA legislation, flies in the face of the implied approval of Alaska's right to manage its own fish and wildlife resources granted through the Statehood process.

Alaska Professional Sportsmen's Association

Representing Alaska's Big Game Guides, Outfitters, Air Taxis, Sport Fishing Guides,
Lodges, Support Industries and Alaskan Sportsmen

March 1990

P.O. Box 190842 • Anchorage, Alaska 99518

Regular Meetings

The Board of Directors/Executive Committee meet regularly on the first and third Tuesday of each month at 6:30 pm at the Days Inn, Conference Room 201. If you are in town you are most welcome to attend.

The APSA Spring general membership meeting will be April 6, Friday 9 a.m. - 1:00 p.m. at the **Clarion Hotel.**

The Great Alaska Sportsman Show begins that afternoon.

SPECIAL SUBSISTENCE ISSUE

As a result of federal court and State Supreme Court decisions the subsistence issue is now back before the Legislature and possibly Congress. As a service to our members. We have reprinted a number of opinions on the issue from various perspectives. We have also addressed some of the facts and fictions of what federal law says.

APSA will be following this issue closely. If you have an opinion you would like to share write APSA.

Subsistence

Under Federal Law

WHAT IS IT? WHAT ISN'T IT?

With the passage of ANILCA IN 1980 the Congress placed into law a new and controversial concept - A Subsistence preference for 'rural' Alaskans. What does Title VIII of ANILCA really say - and what does it not say?

The subsistence preference is a civil right granted by Congress to individuals who reside in 'rural' communities or areas of Alaska.

This civil right may be gained or lost depending on the 'status' of the community or area as 'rural'. It is not a right granted in perpetuity.

Subsistence preference is not a property right, the user does not have any right of ownership over subsistence resources until taken.

This civil right is not granted to a race or culture but to people in 'rural' communities or areas. Native and non-Native have been granted preference.

Can this preference be granted on the basis of 'need'? Not for the first tier of subsistence allocations but if a specific wildlife or fish or other resource is under stress (sustained yield can not be assured under present allocations) then the subsistence user most directly dependent on the resource has a higher priority.

How did Congress define 'rural'?It didn't. That's one of the major problems. Under other federal laws 'rural' is defined as a community of 2,500 or less. Given previous federal court decisions and the recent State Supreme Court decision the population trigger used by the U.S. Census Bureau is about all that is left.

What did Congress say about the State of Alaska's role in Subsistence?

Congress found the State competent to manage all fish and game and other resources (including subsistence resources) within the borders of the state regardless of land ownership. Yes, that includes federal (public) lands. However, in some Wildlife Refuges and units of the National Park System different philosophies of management are required by ANILCA then are often practiced by the State. Enhancement programs are often not allowed on many federal lands due to specific language in ANILCA that require the resources to be managed in "their natural state".

But how does the State manage fish and game on federal lands now? Under a Master Memorandum of Agreement which was signed by Governor Hammond and the Secretary of Interior in 1981.

(continued on page 3)

MESSAGE FROM THE PRESIDENT

The Task Force has completed its work and is no longer in existence, however, it has left us with fifteen crisp, new pages of legislation to consider. The recommendations of the task force are calling for a new guide area permitting system. The members of the task force in general felt that this was the best system to manage the big game resources of the state on state, private and federal lands and the best system to manage the guide/outfitter industry. The bill numbers are SB 422 and HB 448, you can obtain copies of the legislation from Senator Faiks office or the House and Senate Resource Committees.

This is very intricate and complicated legislation. It calls for establishing hundreds of guide areas throughout the state, with a system of individual guide qualifications consisting partially of an operational plan to be submitted by each guide/outfitter

(continued on page 2)

President's Message (continued from page 1)

for each area of interest to the guide/outfitter. These operational plans must then be reviewed by the Commercial Services Board along with seven or eight other criteria to determine the most qualified guide/outfitter applicant for the area in question. A wildlife conservation fee of $25 for each big game animal and $5 for each deer shall be paid by all Commercial Use Permit holder's to the State of Alaska. This includes animals harvested by residents and nonresidents alike, the justification is that the hunter uses a commercial service provider who is receiving income from the commercial use of the resource therefor the State must receive a benefit.

At least two good things may come from this legislation; the three GMU restriction on guide/outfitters has been lifted because this will not be necessary if the new area system is implemented, and the task force has recommended the State seek a new memorandum of agreement with the Federal land managers re-asserting state's rights to manage fish and game on federal lands.

Be sure to get a copy of the proposed legislation, study it and comment to your legislators and to the APSA.

Remember that your board of directors is meeting the first and third Tuesdays of every month in Anchorage at the Days Inn. This meeting is open to all members and their guests, your attendance is encouraged and needed.

I made an error in the last newsletter; any interim outfitter is eligible to take the guide/outfitter exam this March. You need only to be present for the exam and to pay the exam fee, there is no sign-up deadline for interim outfitters. Contact Kurt West with Occupational Licensing in Juneau for more information and a study packet. Contact me for information on study groups for the guide/outfitter exam.

Nick Pierskalla

NEW GUIDE/OUTFITTER/TRANSPORTER LEGISLATION INTRODUCED

By request of the Governor the House and Senate Resources Committees introduced legislation developed by the Task Force on Guiding and Big Game. Senate Bill 422 and its companion House Bill 448 were introduced, as a courtesy to the Governor, at the end of January.

Although APSA has reviewed drafts of this legislation, President Nick, who served on the Governor's Task Force, had not seen the final legislation by press time. The APSA Legislative Committee will be reviewing these bills closely and will bring recommendations to the APSA General Membership meeting April 6th just before the Great Alaska Sportsman's Show in Anchorage. Plan to attend as the position APSA takes on this important legislation will make a difference in how you do business in the future.

Copies of each bill are available at your local Legislative Information Office. If you can not visit an LIO call APSA and we will send you a copy of the legislation.

ALEX TARNAI WINS LAWSUIT

Alex Tarnai, a Hungarian-born trapper and guide and the only full-time resident of the Nowitna National Wildlife Refuge, a 2 million acre area of rivers, forest, canyons and foothills midway between Fairbanks and the Bering Sea won his lawsuit against the US Fish and Wildlife Service.

In 1985, Tarnai and a friend (a FWS employee), planned to enjoy each others company for a week while Tarnai trapped. The FWS gave him a ticket for using a subsistence cabin for recreational purposes. The "recreation" was the visit of his friend. The FWS employee was threatened, by the Refuge Manager, with a citation if she visited Tarnai. She was also told she might loose her job with the FWS.

The Constitution of the United States guarantees each American the right of free association, at least that is what a number of judges told APSA when this case was brought to their attention. And the judge who ruled in favor of Tarnai agreed.

But this would not have happened if Tarnai had not sued. It also would not have happened if Tarnai had accepted, what we are told was, a $50,000 settlement offer by the FWS. Tarnai said no - and now we have a federal judges opinion that gives guidance to federal agencies on the limitations they can put on our rights within federal areas.

Thanks Tarnai and thanks Leslie - at least we know there are two Alaskans willing to fight their for rights.

APSA JOINS INTERNATIONAL SHOOTING & HUNTING ALLIANCE

G. Ray Arnett, President of the International Shooting & Hunting Alliance has agreed to represent APSA in Washington, DC. Arnett is a former Assistant Secretary of Interior for Fish, Wildlife and Parks, former Alaskan (brought in the discovery well in Kenai), and former National President of the NRA.

Arnett also agreed to allow ISHA General Counsel, Stephen Boynton to be a Co-counsel or legal advisor to APSA. Arnett aslo joined APSA as a supporting member.

As you will recall, President Nick met with Arnett and Boynton while in Washington DC. Nick has stated that the decision by Arnett is welcome news given the problems Alaskan sportsmen face in Congress. The ISHA has been very involved in establishing the new Sportsmen's Caucus in Congress.

Subsistence (continued from page 1)

What is the role of the Federal Agencies then?

To monitor and cooperate on species management and to manage the habitat within the conservation System Unit. In units of the National Park Service habitat management is approached with a different philosophy than most other agencies. "Put a fence around it, allow only those the NPS believes appropriated through the gate, under sever stipulations, and 'watch' don't manage the resource." Never, if ever, manage the resource, but always manage the people. Regardless what befalls the resource, by man or nature, just watch - don't help.

But what if the Feds come in and take over subsistence management?

No federal agency has any basis, under ANILCA, to manage any subsistence resources outside of federal (public) lands. The only exceptions are species under the Marine Mammal Protection Act, Endangered Species Act or International Treaties and in most cases this is done in cooperation with the State.

Then what does federal 'take over' really mean? Good question.

The only example we have to help Alaskans understand what Federal take over of subsistence resources on federal lands mean is the DRAFT Federal Subsistence Resource Management Program developed by a multi-agency federal task force in 1986.

Basically federal 'take over' under that program, which has never been released to the people of Alaska for review and comment, would establish a Federal Subsistence Resource Management Board (see chart). This board would review the recommendations of the State Boards of Fish and Game as well as the National Park Subsistence Advisory Commissions and make a formal determination that recommendations were or were not consistent with Title VIII of ANILCA and publish federal resource allocation regulations each year.

Do the Fed's really want to take over? No, but there are some agencies like the NPS that see this as an opportunity to extend their regulatory controls over users.

The Fed's can not afford, financially or politically to "take over". Such an act would pit village against village, rural community against "area" residents and federal managers against state managers for those species that migrate in and out of federal jurisdiction.

Why hasn't the Federal Plan been released? Because of politics and only politics.

The Federal Plan was written to be published in the Federal Register whether the State was or was not in compliance with Title VIII of ANILCA. This was done in anticipation of possible future changes in State law by the Legislature or the Courts. The Federal Subsistence Resource Management Plan MUST be immediately released for public review and comment - and not held in SECRET. It must not be published under federal emergency regulatory authority which does not allow Alaskans a reasonable opportunity to review and comment on the plan before it goes into effect.

Is the Federal government helping Alaska solve the legal and management problems created by ANILCA and the State Supreme Court decision? No. The Fed's have gone into hiding. They do not have a solution that would allow the State to pass a law that would be in compliance with ANILCA Title VIII and in conformance with Article VIII of our State Constitution.

What can I do to help?

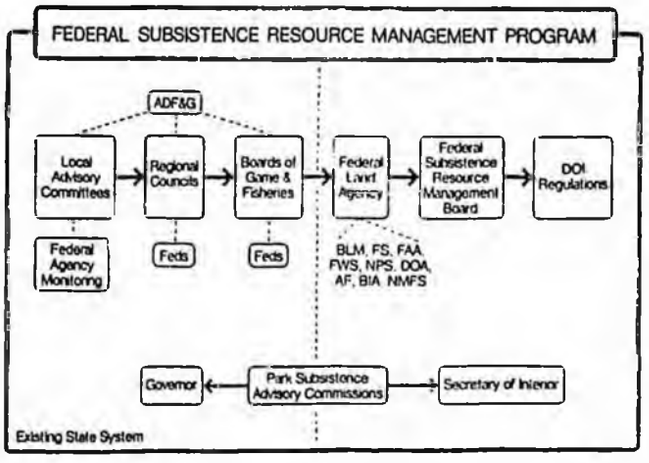
Every Alaskan, Native or non-Native, urban dweller or rural citizen, sportsperson or couch potato must DEMAND that the Federal agencies come out of the closet and sit down with State officials and cooperate. The problem was created by Congress, in a poorly worded, patchwork law that does not define "rural" - it was not created by the State of Alaska.

DEMAND that the federal plan be published before it goes into effect. If it were published then Alaskans could know and understand what the possible Federal take over means and does not mean. Alaskans deserve the right, under the Federal Administrative Procedures Act to see and discuss this plan before it goes into effect, even if it never does.

Support your legislature as it wrestles with its responsibilities. Alaska must craft what ever law Alaska believes is in the best interest of Alaskans - not Congress.

But Alaskans must not wait for leadership, because it will not come from Juneau or Washington, D.C. If we are a State, as any other State, if we are a people that cares about our destiny then each Alaskan must take pen in hand and write the Secretary of the Interior and DEMAND fairness under the law. Demand the federal agencies come to the table. Demand the federal DRAFT plan be released NOW. It only takes a moment but if each of you take action today it can cause a tidal wave.

(Prior to leaving the US FWS, Ric Davidge served as the Chairman of the Federal multi-agency task force that wrote the federal plan. Since 1986 he has tried to have it released so that Alaskans can review and make comments before it goes into effect.)



1990 Membership Drive Underway

The response from members of APSA to the "re-up" package has been very good. We anticipate the new Code of Ethics to be printed by March and every member will have a framable copy to go with your Membership Certificate. In the future you will receive "year" stamps which can be placed on the bottom of your certificate when you re-up.

If you have not sent in your membership dues for 1990 we need them before March. We are trying to get all re-ups started at the begining of each year.

Our Corporate Sponsorship Program is also underway and we will bring you an update in March. If you know of a business willing to support APSA let us know. The first 12 Corporate Sponsors ($1,000) will receive banner recognition in the newsletter.

Worth & Whitney Appointed To State Big Game Commercial Services Board

Governor Cowper has appointed Glen Alsworth, Mayor of the Lake and Peninsula Borough and owner/operator of Lake Clark Air, Inc. and a member of APSA since 1987 to the new Big Game Commercial Services Board along with Clark Whitney a Commercial Drift fisherman and also an APSA member since '87.

"We are delighted with the appointments of Glen and Clark to the Board", said President Nick. "Both gentlemen will bring an important perspective to State regulation of our industry," Nick continued.

The first meeting of the new Board was February 5 in Anchorage. If you want to contact Glen or Clark give the office a call.

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APSA Co-Council Program Growing Fast

One of the programs that makes this organization different from other groups is our litigation program. In addition to the Legal Defense Fund and in order to be effective in litigation, APSA has requested a few outstanding attorneys to join APSA as Co-Councils.

In addition to providing ongoing legal advice to APSA, members with legal problems are referred to an APSA Co-Council as each has specific expertise in important areas of law germane to APSA and its goals and objectives.

As of press time the following attorneys have agreed to work with APSA as Co-Councils.

Stephen S. Boynton, General Counsel for the International Shooting & Hunting Alliance in Washington, DC.

Jeff Parker, former Counsel to the Sierra Club, sportfishing guide and a member of the law firm of Adler, Jameson & Claraval in Anchorage. Jeff is recognized as one of Alaska's leading environmental attorneys.

Wayne Anthony Ross, Alaska's leading sportsman's attorney, a National Vice President of the National Rifle Association, recipient of many national awards for his advocacy of sportsman's issues in Alaska and across the nation.

Three other attorneys have been requested to join this impressive group and we anticipate their formal agreement this month.

If you have legal problems or just need some advice call the office and we can put you in touch with the right attorney.

Alaska Outdoor Council Requests Nominations

Nominations for twelve conservation awards have been requested by the Outdoor Council. APSA is an active member of the Council and has been requested to forward any nominations our members believe appropriate. The awards offered are:

Fish and Wildlife Officer of the Year
Waterfowl Conservationist of the Year
Game Conservationist of the Year
Fish Conservationist of the Year
Water and Soils Conservationist of the Year
Education Conservationist of the Year
Conservationist Industry of the Year
Forester Conservationist of the Year
Conservationist Legislator of the Year
AOC Organization of the Year
Sportsman Conservationist of the Year
Most Outstanding Member

If you have any recommendations please write APSA and provide the name, organization and explain why you have recommended this individual.

APSA Members Appointed to Bristol Bay Salmon Enhancement Association Board

President Nick Pierskalla and member Jim Broady have been appointed to the Board of Directors of the Bristol Bay Salmon Enhancement Association. Broady serves as the alternate for Nick on the Board.

This is an important development, in that APSA is the only sportsman's group on the Board. If you are interested in what the Association is doing or have specific concerns regarding salmon enhancement in Bristol Bay give Nick or Jim a call.

Alaska Supreme Court decisions send message to native population

By John Shively

In what can only be termed a double-barreled blast from a culturally biased shotgun, the Alaska Supreme Court has sent a message to Alaska natives, which will reverberate for years. During the week before Christmas, in two separate but legally related cases, the Alaska Supreme Court has told Alaska natives there is no room under the state constitution to assist them either in preserving their own culture or in helping them participate in Western culture.

In a case involving the state's local hire law, the supreme Court found it unconstitutional to attempt to help people in economically disadvantaged areas obtain jobs on state-funded projects. Although this case has implications for non-natives, there is no question that the most economically disadvantaged areas in the state are those areas primarily inhabited by Alaska's native people.

In the second case, the Supreme Court threw out the state's subsistence use of fish and game. The state's subsistence law, because the law favored rural residents over urban residents in subsistence use of fish and game. The state's subsistence law was an effort to resolve a very difficult and long-standing issue relating to the protection of hunting and fishing rights which are the basis of the native culture.

There are several issues common to these cases. Both involved a split decision of the court. The local hire law saw a 3-2 division in the court, and the subsistence law a 4-1 division.

In both cases the Supreme Court was concerned with the concept of equal allocation and access. In the local hire law, the case was decided under the equal protection clause of the constitution. The subsistence decision was based on the concepts of equal access and common use found in the natural resources article of the constitution.

The Supreme Court in both cases seems to recognize that inequality is rampant in our society. The only question the court decides is who is going to be more unequal than whom.

In these cases the Supreme Court, in its very finite wisdom, decided that the primarily non-native urban society should have the upper hand over the primarily native rural society. In the local hire case, the job preference was available only if the state Department of Labor determined an area to be economically depressed. In such areas, the preference applied to only 50 percent of the jobs for which there were qualified local residents.

Thus, there were plenty of opportunities for urban workers to participate in rural projects. However, the Supreme Court refused, even in this limited manner, to assist people in rural Alaska in participating in Alaska's economy. Absent this kind of assistance, most of the jobs will go to urban residents who have direct access to union halls and to the headquarters offices of those construction companies which perform the work on most state-funded projects.

The decision on the state subsistence law is on the other end of the cultural scale. Rural Alaskans, particularly native people, depend on fish and game resources for a great deal of their livelihood.

In order to protect this life-style, the federal government passed a law requiring the state to adopt subsistence legislation that gave preference—not exclusive use—in hunting and fishing to rural Alaskans. Sport hunting and fishing would still take place while this preference was exercised. The court has now dismembered this subsistence law.

It should be of some concern to citizens, who believe judicial decisions should be free of personal bias, that three of the four justices who decided to overturn the subsistence law have recently held sport hunting and/or sport fishing licenses. At the very least, this gives the appearance of a conflict of interest, as their decision gives themselves and other urban sportsmen a potentially bigger piece of the Alaska's fish and game pie. Remember, this is the same Supreme Court which oversees a criminal justice system which incarcerates natives at a rate which is over twice their percentage of the population.

It is also worthy of note that major portions of the subsistence decision are based on the court's belief that the intent of a piece of federal legislation was directly incorporated into the Alaska's constitution. Native leaders might note with some irony that the title of that act was, appropriately, the White Act, and that its major purpose was to eliminate fishing rights for certain natives.

In both the local hire and subsistence cases, Chief Justice Warren Mattews, Justice Edmond Burke and Justice Daniel Moore found for urban non-natives.

Also in both cases, Justice Jay Rabinowitz found on the side of rural Alaskans. The fact that Justice Rabinowitz is generally considered to be the most judicially distinguished justice of the five members of the Supreme Court should cause some people to think twice about what the Supreme Court has done.

Justice Allen Compton dissented from the opinion in the local hire case but joined with the majority in the subsistence case.

The key point here is to look at the message the Supreme Court has delivered to Alaska natives. The message would seem to be that, "We refuse to use the state constitution to preserve your subsistence culture or help you get jobs in the Western culture."

It is a devastating and tremendously significant message to those natives who for years have been told that, if they just work within the system, the system will recognize the importance of them as a distinct and important part of our Alaskan society.

The message is a sobering one. It would seem to give a great deal of credence to those leaders of the native community who promote a sovereign relationship with the federal government as the only logical method for solving the many difficult social, legal and economic problems facing Alaskan natives. Indeed, the United States Supreme Court has an almost 200 year tradition of protecting the rights of indigenous people.

The message delivered by the Supreme Court is every bit as explicit and blatant as those messages delivered by white judges during the declining days of racial segregation in the South, and the message delivered by George Armstrong Custer and his compatriots as they herded American Indians across the Western frontier. The court seems to be saying: "There are more of us white guys than you natives, and the more of us there are, the less we will leave for you.

Even though these Supreme Court decisions will be challenging to Alaska natives, these people have survived hardship for thousands of years. They were here long before institutions such as the Alaska Supreme Court were envisioned by mankind and will be here long after the justices of the Supreme Court have cashed out their state retirement and fled to some exotic southern climate.

Even though the Supreme Court found a unique way to say, "Merry Christmas" to Alaska natives, I believe the new challenges presented to the native leader-

(continued on page 6)

Alaska Supreme Court

(continued from page 5)
ship will be met, just as other challeges have been met in the past. Alaska natives are survivors, and they will ultimately prevail. However, I am ashamed and saddened that the Alaska Supreme Court will not allow the state to participate in the resolution of these problems.

John Shively is a vice president of NANA Regional Corporation. He is a former chairman of the state Board of Game and was chief to staff to Gov. Bill Sheffield.

Reprinted courtesy of Anchorage Times, January 3, 1990.

Personal Property Taxes & Local Rural Residency

Do you park your plane at Lake Hood during the winter? Do you own a home in Anchorage, but your residency record is at your lodge or business - but must pay personal property taxes to the Municipality of Anchorage? Have you been determined a "local rural resident" by the National Park Service which allows you to qualify under Title VIII of ANILCA as a "rural resident"?

Important questions which may decide your legal residency status. Some members have recently been notified by federal and state law enforcement officers that because of these confusing issues they will no longer be allowed to harvest fire wood or other "subsistence resources" in a Federal Park or Preserve. Even though they meet State of Alaska residency requirements under the law there is confusion.

Think hard about where you want to list your principle domicile - or establish your residence. Do you live any place more than six months and a day? It could make a big difference in how you are treated by the Fed's and the State.

Remember that conspiracy between government officials to deny you of your civil rights is a violation of the Federal Civil Rights Act. Think about it.

Communicating Effectively with Washington, DC

It is important we let our representatives know how we feel about actions they take or do not take in our behalf. The best way to let them know is write them a letter. It doesn't need to be long. It doesn't need to be typed. It does need to be a personal letter that conveys your thoughts in your words.

Think K I S S (keep it simple, stupid)

BE BRIEF What do you want them to do and why?

BE ACCURATE Tell them your side and substantiate it.

BE POSITIVE Concentrate on the good parts. • Don't knock the other side. • Offer Suggestions. • Suggest alternatives.

BE SPECIFIC Address the letter to your legislator. • Indicate which bill you are talking about. • Ask for the vote and a response.

BE PERSISTENT Be aware legislators maintain informal running counts pro and con on controversial legislation.

Addresses:

The Honorable Knute Knudson, Jr., Deputy Assistant Secretary, FWP, US Department of the Interior, Wash., DC. 20240.

Senator Ted Stevens (or) Frank Murkowski, U.S. Senate, Washington D.C. 20510.

Representative Don Young, U.S. House of Representatives, Washington D.C. 20515.

Senator (or) Representative Ak, State Senate (or) House, Pouch V Capitol Bldg, Juneau, AK 99811.

Subsistence issue needs final solution

by Clem Tillion

The Chief Justice of the state Supreme Court's recent action—delaying the effective date of the courts decision striking down Alaska's subsistence laws that grant special preference to rural residents for the taking of fish and game resources in the areas in which they live—leaves me a little baffled.

It looks like the court wanted its decision to be available to the state legislature for its consideration and the Chief Justice probably only later realized that if the state was to close all subsistence to save the resource from an influx of urban hunters, it would have substantial negative impact on those depending on it this winter.

It's one of those cases where if they delayed their actions until the season was over the legislature would also be over.

Now what the Chief Justice's action, however admirable, has done, is tell the state its law is unconstitutional but we grant our permission to enforce an unconstitutional law until July 1.

Well, thanks for the hand, Chief, but it sure puts the troopers in a tough position when you tell a cop to go out and arrest someone under a law already declared unconstitutional.

I know my years spent in writing law are far different than ruling on it, but in the four years I was chairman of the judiciary committee if one of the staff lawyers had told me "it's unconstitutional, Mr. Chairman, but I think we can still get convictions under it," I'd have eyed him like a black bull looking at a red calf and sent for a second opinion.

Unlike some in Anchorage, I happen to agree with the basic premise of our subsistence law, as did a majority of Alaskans as shown by the referendum that attempted to repeal the law via a statewide vote a few years back.

There are still Alaskans living on a non-cash or marginal cash life style and we should take into consideration that those who harvest resources to eat should have a preference so long as it is their only practical alternative.

With the exception of those seven native villages that refused to accept the land claims act, such as Gambell and Savoonga, the rest of our native people gave up their aboriginal rights in exchange for land and oil money. As such, it is not unreasonable for them to live under the same laws and regulations as any other citizen of the state living in like manner. Therein lies our dilema.

Alaska is in the provervial Catch-22 position: We are prohibited from writing racist law, not only by our state constitution but by the federal Civil Rights Act, an act that was opposed by the Council of North American Indians at the time of its passage as they foresaw the very problems facing Alaska today.

So what do we do?

The feds gave us the right to manage our fish and game resources as part of our statehood grant but Congress then passed other laws taking back much of which they had given us.

The one staring us in the face now states that if the state does not pass legislation granting rural residence priority over the fish and game resources on federal lands abutting the area they live, the management of those resources of the federal lands shall revert to the federal government.

If the federal law had even a need basis on their land use, however much

(continued on page 7)

Subsistence issue

(continued from page 6)

some of us dislike the word need, we could write a legal law saying that citizen can hunt.

I hope our legislature can at least find a temporary solution, such as the prohibition against transporting subsistence hunters and fishermen by air, and a prohibition against the transporting by air or automobile, but this alone will not solve our problem for the federal law requires that we grant a rural preference.

Halibut Cove charter boat skipper Clem Tillion is a former president of the Alaska Senate.

Reprinted fron the Anchorage Times 1/14/90

Subsistence ruling levels the playing field

By Wayne Ross

On WEDNESDAY, JAN. 3, The Anchorage Times printed an article by JOHN SHIVELY, vice-president of NANA REGIONAL CORPORATION. It has to be one of the most amazing articles I have read in the last 20 years. If you haven't seen it, and if you are interested in the subsistence issue, I'd suggest that you pick up a copy of Wednesday's Times.

Mr. Shively obviously was angry when he wrote the article. Mom always said that if you wrote something when you were angry, you shouldn't mail it. Instead, wait until you had calmed down and then re-read what you had written. Then, chances were, if you ha' good sense, you'd tear it up and star over agin. Clearly, Mr. Shively didn't have the benefit of this good advice. He must have sent in his column while he was still angry. He should have kept it and re-read it the next day. It must be embarrassing to him to see his angry words published.

Mr. Shively attempts to take the Alaska Supreme Court to task for its decision overturning the state's subsistence law. He accuses the court of being "culturally biased," possessing "finite wisdom," and of refusing "to preserve (native) subsistence culture." He accuses the court of being racist like "white judges during the declining days of racial segregation in the South" and of being like "George Armstrong Custer. . .as (he) herded American Indians across the Western Frontier."

You have to give Mr. Shively credit for one thing. He writes a very colorful article. Inaccurate. But colorful.

After reading the Supreme Court's decision, and later, Mr. Shively's article, I can only conclude that Mr. Shively never actually read the court's opinion. After all, Mr. Shively is an intelligent man, former chairman of the state Board of Game, and chief of staff for Gov. Sheffield. If Mr. Shively had read the actual opinion, he could not have come to the conclusions he did.

Mr. Shively claims the subsistence decision discriminates against natives. It does not. Instead, it restores equality to all Alaskans, native and non-native alike.

The state's subsistence law gave a priority to rural residents. This law made urban residents second-class citizens with less rights to fish and game resources that rural residents.

Many native people live in urban areas. Many non-native people live in rural areas. The state's subsistence law granted subsistence rights to non-native rural residents, while denying subsistence rights to urban natives. Indeed, one of the plaintiffs in the case that ultimately overturned this discriminatory law was a native who, simply because of where he chose to live, had been denied his subsistence rights.

Mr. Shively attempts to demonstrate bias on the part of several of the justices because they recently held "sport hunting and/or sport fishing licenses." He claims that because the justices held those licenses "this gives the appearance of a conflict of interest as their decision gives themselves and other urban sportsmen a potentially bigger piece of Alaska's fish and game pie." This argument makes as much sense as saying because a judge has a driver's license, he should not participate in deciding a drunk driving case. Nonsense, Mr. Shively.

The court's decision is fair and clear. Since Alaska's Constitution reserves all fish and game resources "for the common use," it is a violation of that constitution to discriminate in awarding those resources based upon where a person chooses to live.

Mr. Shively correctly points out that Alaskan natives have survived for

(continued on page 8)

Anyone Interested in submitting articles for the newsletter, please send copy to Ric Davidge

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JOIN ALASKA'S FASTEST GROWING PROFESSIONAL SPORTSMANS ASSOCIATION

Membership Application

- ☐ Professional $100.00
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- ☐ Business Sponsor $1000.00
- ☐ Legal Defense Fund $1000.00

Name _____

Address _____

City _____ State _____ Zip _____

Phone _____

Business Represented _____

Signature _____

Date _____

Subsistence ruling

(continued from page 7)

thousands of years, and that new challenges to the native leadership will be met. He claims, however, that he is "ashamed and saddened that the Alaska Supreme Court will not allow the state to participate in the resolution of these problems." Cheer up, Mr. Shively. The Supreme court said no such thing. The Supreme Court only held that in solving the subsistence problem, the state could not discriminate.

But what is the problem?

Remember this. Natives and non-natives alike have enjoyed subsistence hunting in Alaska for hundreds of years. Discrimination, however, reared its ugly head for the first time in 1978 when the Alaska Legislature enacted a subsistence law and later, when Congress enacted subsistence provisions in ANILCA. We can have subsistence hunting without discrimination. But we must not allow people like Mr. Shively to make it a racist issue.

It's an Alaskan issue, Mr. Shively. And we are all Alaskans. And as Alaskans, we can solve this problem. But, says the Alaska Supreme Court, in doing so, we must be fair to everyone.

Everyone, Mr. Shively. Are you listening?

Wayne Anthony Ross is an attorney in private practice in Anchorage and second vice president of the National Rifle Association.

Reprinted from the Anchorage Times 1/7/90

THE BEST DEAL IN TOWN

What do you get for your membership?

Member services are being expanded to include:

Monthly Newsletter - The newsletter not only tells you what has happened but what may happen in the coming months impacting your business.

New patch, decals and membership cards now available.

Professional Support - Our staff and professional committees represent decades of experience in recreation industries and in government. We are all here to help you operate your business with the least amount of conflict.

Representation in Juneau and Washington D.C. - Never sleep while Congress or the Alaska Legislature is in session - we don't. You receive professional and influential representation of your concerns in our state and national capitols. We review legislation that would impact your business and work hard to ensure that if new laws pass, they will help - not hurt.

Legal Defense Fund - A goal of the APSA is the establishment of a Legal Defense Fund ($100,000 CD) to back up our efforts to protect your rights as sportsmen. With 100 members pledging $1000 we are establishing this important tool. Remember money is muscle.

General Liability Insurance/Bonding - We are working with national organizations to obtain a group general liability policy for our members. We are also working on a self bonding program that should help meet your bonding requirements for operation on federal or state lands.

Affiliate/Association Memberships - As a member you will have affiliate status with major national groups also fighting for your rights. You will receive newsletters and other information on what is happening in Congress or other states that may effect you.

Political Clout - There is strength in numbers. This organization finds itself in the right place, at the right time, and with the right issues to advance the interests of sportsmen and women in Alaska.

Saving on Legal Fees - We are gathering a group of legal professionals to assist to our members. Additionally our staff is familiar with federal and state laws and assists members prepare a case with your lawyer.

Law Enforcement Hot Line - We coordinate law enforcement concerns and meet with top Federal and State law enforcement officials regularly. Your membership is an investment in your business. Many members have already found they spend more time developing their business and less time fighting with government by joining APSA. Compare the value, we are confident you will join.

Together we can make a difference.

APSA
Alaska Professional Sportsmen's Association
P.O. Box 190842
Anchorage, Alaska 99518

Davidson, Cliff
P. O. Box V
Juneau, AK 99811

RECEIVED

PREPARE

Special Subsistence Edition

March, 1990

An Ecumenical Educational Legislative Information Network for Alaskans who care about Peace, Justice & Creation

My Story

If a rite of puberty for boys growing up in South Texas existed 50 years ago, it most certainly included some form of hunting and/or fishing.

By the time I reached 12, my great ambition was to have my very own .22 rifle. There was nothing wrong with my father's old bolt action rifle, which he freely loaned me for rabbit and squirrel hunts with my buddies – after repetitious training in the safe handling of firearms, of course. But just as most boys now yearn for "wheels" of their own, I wanted my very own semi-automatic that I could clean and oil and keep in my own closet!

I still have that first rimfire .22 which my Dad allowed me to choose from the vast stock at Corpus Christi Hardware. It was a reward for practicing hard and winning first in a State music contest when I was 14. Since that time I have enjoyed the thrills of hunting the brown bear of Kodiak Island (not with that little .22, of course), and hooking the king salmon of Favorite Channel as well as the halibut of Homer.

I share this bit of personal history because you have a right to know where I am coming from as I make this effort to shed light on what at first may appear to be simply hunting, fishing and gathering by Native Alaskans – Aleuts, Eskimos and Indians.

My education into the life and cultures of of Alaska's indigenous

peoples began in Juneau in 1956. For 10 years I was pastor of the Juneau Methodist Church there. During that time I was fortunate to have a close working relationship with our Choir Director, Richard Newton. Richard is a wise and wonderful Tlinget leader then employed by the U. S. Forest Service; and a fine musician who shaped our chancel choir into one of the best in Alaska.

From Richard I learned much about the culture of the rain forest people – including the sacred ritual of returning salmon bones to the river from which they had come. All of life for his people had been tuned to the cycles and recycling processes of nature. The awareness of the sacred was woven into the whole fabric of their lifestyle and culture.

Culture & Tradition

I have come to understand now that what we call "subsistence" is not the same as sport hunting and fishing. It is not simply "living off the land", either. In the words of Jonathan Solomon of Fort Yukon,

When we talk about subsistence in the areas, we should be talking about Native culture and their land. I never heard the word subsistence until 1971 under the Native land claims act. Before that time, when I was brought up in the culture of my people, it's always been 'our culture' and 'our land'. You cannot break out subsistence or the meaning of subsistence or try to identify it, and you can't break it out of the culture. The culture and the life of my Native people are the subsistence way of life. It goes hand in hand with our own culture, our own language, and all our activities.

Culture includes that which matters most to any people – values, religion, all that is sacred. And this may explain why Native Americans (including Alaskans) have never been able to

reach a common understanding about the land with white Europeans and others who immigrated to this continent.

The Land

Land is traditionally not simply "real estate" for Native peoples. It is the essence of existence, identity and belonging.

For European immigrants, on the other hand,

...land was merchantable. Law and usage had developed a complicated system of privileges and obligations, all deriving from the notion of a transferable fee title in land. Land that was not encompassed within some form of recorded title was outside of law itself . . . When these Europeans found that Indians had no proceedings for recording title, indeed had no titles, they readily assumed that there was no ownership. [2]

This is not to suggest that the Europeans simply occupied and appropriated the land of Native Americans. The Puritans, for example, believed that the confiscation of property was wrong whether boundary markers existed or not. Roger Williams, among others, proposed that the land be purchased from the Native Americans for a reasonable price. This approach, as much as his theological ideas, perhaps, contributed to his banishment from Plymouth! [3]

Political reality – perhaps more than morality – induced European immigrants to secure land and resources by negotiation rather than by conquest. Hostile environment, Quaker and Puritan ethics, combined with principles of British and International Law (as well as military necessity) reinforced this pattern. During the American Revolution the colonists who cultivated alliances with East Coast tribes became obligated to them for support or – at least – neutrality. [4]

Such is the historical background for the more than 200 years of treaties between colonial, state and federal governments and Native Americans. As has been well documented, this history has been marred by broken treaties and legislated plunder.

ANCSA

The relationship of the federal government to Alaska Natives both before and after the Alaska Native Claims Settlement Act of 1971 has been essentially the same as that of other Native Americans under American law. [5]

The highest hopes of Alaska Natives have included the preservation of their land claims, subsistence and self-government. ANCSA addressed only the land claims. However, the Conference Committee report made it clear that the subsistence needs of Alaska Natives were to be protected.

Subsistence

The Conference Committee after careful consideration believes that all Native interests in subsistence resource land can and will be protected by the Secretary (of the Interior) through the exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by nonresidents when subsistence resources for these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State (of Alaska) to take any action necessary to protect the subsistence needs of the Native. (Emphasis added.) [6]

ANILCA

Since neither the Secretary of the Interior nor the State of Alaska fulfilled these expectations, Congress added Title VIII to the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

ANILCA requires *the state to manage fish and game resources according to federal subsistence requirements as the price to be paid for the right of managing fish and game on federal (public) lands.* [7]

Failure to provide subsistence preference to those who depend customarily and directly on fish and wildlife as the mainstay of livelihood, who are local residents, and have no alternative resources available, will mean the transfer of management of public lands to the federal government. [8]

Conclusions

The conclusions drawn by DavidCase in his monumental study are worth quoting at length:

To some extent, federal treaties and statutes have protected Alaska Native subsistence interests for many years. Earlier enactments afforded minimal exemptions, often limited to specific species or wildlife taken by primitive hunting methods. In all likelihood more realistic forms of protection were unnecessary because there was little real conflict over the exercise of aboriginal hunting and fishing rights. However, Alaska statehood, the enactment of ANCSA and the relatively rapid development of the new state exacerbated these conflicts. The federal response has not been the abandonment of Native subsistence values, but the protection of those values in the form of exemptions from recent wildlife conservation treaties and statutes. Moreover, the state has been virtually compelled under ANILCA to adopt statewide subsistence protections, structured in significant part to protect Native subsistence interests.

Although the umbrella of federal protection now shelters both Natives and non-Natives, the fact does not entail a diminishment of Native values so much as an acknowledgement that in Alaska significant numbers of non-Natives now share those values by their participation in the subsistence economy. Nor do recent federal enactments necessarily preclude the possibility of some tribal control of subsistence hunting and fishing. In fact, recent amendments to the Lacey Act imply that, even in Alaska, tribal fish and game management may receive additional support through federal enforcement. Particularly when faced with competing state interests, the courts have also concluded that this long and continuing history of federal protection constitutes statutory acceptance of a trust responsibility for the maintenance of subsistence culture.[9]

The Conflict

Last December 22, the Alaska Supreme Court ruled that Alaska's subsistence statute giving rural residents priority in hunting and fishing privileges discriminated against urban residents. The decision was based on the Alaska Constitution's "common-use" clause which provides that all residents have equal rights to use fish and wildlife.

On January 5, Alaska's Supreme Court Chief Justice Warren Matthews issued a stay, postponing until July 1 the effects of the December 22 decision. This means that the State of Alaska has very little time to change either the State Constitution to accommodate the ANILCA protection of Alaska Native subsistence rights OR get Congress to change ANILCA to accommodate the Alaska Constitutional position, which has been supported by influential special interest groups of sports hunters and fishermen, commercial fishermen and hunters, environmental and animal rights groups.

In our view, the historic federal trust position of protecting traditional Native American subsistence culture and rights must prevail. The alternative would mean the extension of "the trail of broken treaties" to the remaining great land capable of keeping at least some of the promises of democracy made to the people who were here first.

It is important, of course, for Native Alaskans and other Alaskans who value the subsistence way of life to cooperate and – if possible – reach a consensus on the best way to ensure its preservation.

As Representative Eileen Panigeo MacLean of Barrow wrote recently,

It is up to us Alaska Natives to be aware of subsistence issues and to understand the arguments as we advocate for our hunting and fishing rights. If we do not, we will lose control over our destiny and our culture shall not survive.

We must continue to stand up and speak for our needs, so that we will not wake up one day to find that we are no longer able to gather the resources which sustain us. We must keep our authority of local control.

We must give support and encouragement to the various groups and commissions that advocate for our way of life and show our appreciation for their efforts and dedication. They are working to protect our resources and our right to the resources not just for themselves, but for us and for our future generations. [10]

Alaska IMPACT adds its voice to those who advocate for the Native Alaska subsistence way of life. As has

been demonstrated time and again in the "South 48" and in Hawaii, it is easy for a dominant majority to ride roughshod over minority cultures and their rights and traditions.

Our hope is expressed in these wise words of our noted legal authority on the impact of American laws on Alaska Native peoples:

Perhaps in Alaska, in the waning days of the twentieth century, we will at last find one place where the relationships between immigrant and aboriginal Americans can be structured so that each may enrich the other, and thereby ensure the diversity that is the hallmark of a free society. [1]

Is There A Solution?

On February 1, 1990, the Board of Directors of the Alaska Federation of Natives adopted a position statement on subsistence, including the following:

We believe that if Alaskans are going to solve this problem:

a) an amendment to the Alaska Constitution to enable the legislature to enact and the administration to implement a rural subsistence priority which protects customary and traditional use of fish and game by Alaska Natives and other rural residents is the preferred solution; and

b) AFN is committed to working with the Governor and legislative leadership in considering other solutions which meet AFN'S policy goal.

Senator Stevens

In his address to the Joint Session of the 16th Alaska Legislature on January 17, Senator Ted Stevens pointed out that a federal solution would risk serious losses to the state. "I would urge you not to think that the federal solution is the one that is easiest," he said, "because we will lose more than we gain."

Governor Cowper

Governor Steve Cowper has stated that,

Subsistence is a way of life for thousands of Alaskans, not a weekend hobby, and we've got to do everything possible to protect that way of life. I'll be working with the Alaska Federation of Natives, other Native groups and the legislature to shape a solution to this latest problem that the (Alaska) Supreme Court has dropped in our laps. [12]

Several legislative measures have already been introduced in Juneau, including:

SCR 39 by Senator Jay Kerttula of Palmer which would establish a Commission to review the legal situation and identify possible options for a solution for the Senate

HB 415 by Representative Ramona Barnes of Anchorage, which would amend the Alaska subsistence law and base "subsistence user" criteria on 1) local residency and 2) direct dependency on subsistence resources and income below the national poverty level.

HJR 74 by Representative George Jacko would amend the Constitution by adding a section to give the legislature authority to grant a preference for subsistence use of fish and wildlife and State-owned renewable natural resources.

Very likely there will be many more measures by various pressure groups during this session. Alaska IMPACT will alert members to advocacy action possibilities as appropriate.

This edition of Prepare was written by the Executive Director of Alaska IMPACT. If you have information, questions or suggestions, please write or phone:

Richard K. Heacock, Jr.
Alaska IMPACT
3012 Riverview Drive
Fairbanks, Alaska 99709
(907) 474-0700

Notes:

[1]Village Journey, Thomas R. Berger, Hill & Wang, 1985, p. 52
[2]Indians and Other Americans, Fey & McNickle, Harper, 1959, p. 28
[3]Behind the Trail of Broken Treaties, Vine Deloria, Delta, 1974, p. 95
[4]Alaska Natives & American Laws, David S. Case, U of A Press, 1984, p. 47
[5]Ibid., p. 47 ff.
[6]Senate Report 92-581, 92nd Congress; 1st Session, December 14, 1971 at 37
[7]Case, op. cit., p. 300
[8]Ibid., p. 303
[9]Ibid., pp. 313, 314
[10]"Tundra Times", January 29, 1990, p. 29
[11]Case, op. cit., p. 477
[12]AFN Newsletter, Special Issue, February 1990, p. 7

Graphics courtesy of:

Alaska Federation of Natives: Salmon Drying, page 1
Doug Lindgrandt's Alaskan Sketchbook, Caribou & Walrus drawings, page 2
Alaska Federation of Natives, Ice Fishing, page 3
Bishop Museum Press, Halibut Hook, page 4
Vancouver Art Gallery & University of British Columbia, Tlingit Canoe, page 4

HB-415

page 2 - section 3 - new subsection (g)

Delete Items

(1) motorized vehicles, including motorized boats, aircraft, snow machines, trucks, and automobiles.

(4) gill nets, seines, or long lines

(5) traps or snares that the Board of Fisheries or Board of Game determines to be inhumane. (# 5 - "inhumane" could be abused)

page 2 - section 4 - (29)

add/retain/put back in

[Gill Net, Seine] [Long Line]

I am deeply distressed by any appearance of an arbitrary determination of an "access" to natural resourses based on where I live - how much money I earn or don't earn - the color of my skin - etc.

What ever happened to the "melting pot theory" Now instead of being able to utilize any or all of the various social/cultural heritages -

I am now compelled to align myself with some "Special Action" group or entity.

I fully realized that natural resourses need to be ~~sed~~ managed. It appears that more and more of those resources are managed for "Special" groups - rather than for biological/habitat concerns.

I sure don't envy your job -

Walter Brown

Alaska State Legislature

Please enter into the record my testimony to the House Resourse committee name

committee on HB-415/ HJR 88-74-90 bill/subject, dated March 10, 1990.

I am very reluctant to see any subsistence issue resolved by constitutional amendment.

(1) because my interests reflect (apparently) a minority viewpoint - the "common" use of natural resourses without my being excluded - because I am White/and have a western european cultural heritage - and because I live in a moderately developed community (Kenai pen-)

(2) I do not like the appearance of "basic" human rights being mandated or influenced by "Majority Rule" -

For those reasons I am opposed to HJR# 88-74-90 Of these proposed resolutions/proposed constitional amendments I find find HJR-74 most tolerable. Both HJR.-88 and HJR. 90 suggest "urban exclusion."

Of the bills under consideration, I find HB-415 most acceptable. "And then" only "If" the following changes are made - next page

Signed: Walter Brown
Testifier

self
Representing (Optional)

P.O. Box 3502, Kenai AK 99611
Address

262-1908
Phone No.

DRAFT DRAFT DRAFT DRAFT

ALASKA SPORTFISHING ASSOCIATION

We support fair allocation of Alaska's Fish and Wildlife resources to all user groups: sport, subsistence and commercial. We do not oppose subsistence harvests. We support generous subsistence harvests by Alaskan residents. We do object to the statutory priority given subsistence harvesters, both in state legislation and Title VIII of ANILCA. These statutes have diluted the authority of the Boards of Fisheries and Game to the extent that they can no longer make reasonable allocative decisions on a case by case basis. These statutes have caused extensive litigation and have resulted in unfair allocations of fish and game resources in numerous areas of the state. Recent court decisions will result in additional unfair allocations in the immediate future.

Alaska has been singled out, alone among the 50 states, in having its authority to manage resident fish and game threatened with federal take over if we do not follow the mandate of Title VIII of ANILCA. We believe that the State of Alaska, through the Boards of Fisheries and Game, should be free to allocate fish and wildlife resources throughout Alaska and the state should manage those harvests. The threat of federal take over should be removed by amending the ANILCA legislation.

The Boards of Fisheries and Game should have the flexibility and authority to meet the particular needs of each user group based on data from resource scientists and input from the user public by judicious adjustment of seasons, bag limits and methods and means.

Our position is that:

1) Subsistence is a valid use of Alaska's fish and wildlife resources.
2) There should be no statutory harvest priority accorded to any one user group on public lands.
3) There should be no change in the state constitution which allows the establishment of a harvest priority.
4) The State of Alaska should manage all resident fish and wildlife on all lands in Alaska through the Boards of Fisheries and Game without federal threats or interference.
5) Title VIII of ANILCA be amended to remove the threat of federal take over of fish and game management on all Alaska public lands.

TESTIMONY OF

JULIE. E. KITKA, PRESIDENT

ALASKA FEDERATION OF NATIVES

BEFORE THE HOUSE RESOURCES COMMITTEE

April 3, 1990

Mr. Chairman, members of the committee, my name is Julie Kitka and I am the president of the Alaska Federation of Natives. On behalf of the AFN Board of Directors, we very much appreciate this opportunity to testify in support of the proposed amendment to the Alaska Constitution.

As you know, last December the Alaska Supreme Court ruled by a vote of four to one in McDowell v. State that the Alaska Constitution prohibits the Legislature from enacting legislation providing rural Alaska residents a subsistence hunting and fishing priority over other residents. While AFN believes that McDowell was decided incorrectly, the Alaska Supreme Court is the final arbiter of the intent of the Alaska Constitutional Convention delegates embodied in the Alaska Constitution. Consequently, until the text is amended, the McDowell decision's interpretation of the Alaska Constitution stands.

In considering whether to amend the Alaska Constitution to grant the Legislature the authority the Alaska Supreme Court has said the Legislature lacks, it is important to recognize the Supreme Court's limited role in developing public policy.

In McDowell, the Alaska Supreme Court did not decide that providing residents of rural areas a subsistence hunting and fishing priority is a bad policy. Rather, the Court held that, in the opinion of a majority of the

Justices, it is a policy the Legislature presently has no authority to implement.

This distinction is important because, if the Legislature and the Alaska electorate believe that a subsistence priority is good public policy, there is substantial precedent for amending the state's constitution to provide the Legislature authority to enact one. The 1972 constitutional amendment authorizing the Legislature to limit entry to Alaska's fisheries is the most well-known example.

In 1986, the Legislature (through enactment of ch. 52 SLA 1986) determined that establishing a rural subsistence priority is the public policy that best advances the interests of all Alaskans. While the AFN Board supports the Legislature's determination, it is important to emphasize that a rural resident subsistence priority is AFN's second policy choice.

In 1977, AFN testified before Congress that, in addition to a rural resident priority, an Alaska Native priority is the fairest and most workable way to address the subsistence issue. See Inclusion of Alaska Lands in National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems: Hearings on H.R. 39, et al., before the Subcomm. on General Oversight and Alaska Lands of the House Comm. on Interior and Insular Affairs, 95th Cong., 1st Sess., Part XII at 461-97 (1977) [hereinafter "House Interior Hearings].

An Alaska Native subsistence priority is supported by more than half a century of precedent. Between enactment of the first Alaska Game Act in 1902 and the transfer of authority to regulate hunting and fishing to the new State of Alaska in 1960, Congress afforded Natives a subsistence priority. See 48 U.S.C. 198 (Indians and Eskimos authorized to hunt for food during closed season) and 48 U.S.C. 199 (Indians and Eskimos exempted from licensing requirements to which other resident hunters were subject).

And contrary to much erroneous popular wisdom, Congress did not abandon its commitment to protect Native subsistence hunting and fishing when it enacted the Alaska Native Claims Settlement Act in 1971. At the time ANCSA was enacted, Congress was aware that the Board of Fish and Game was not protecting the legitimate interests of Native subsistence hunters and fishermen. Consequently, although section 4(b) of ANCSA extinguished Native "aboriginal hunting or fishing rights that may exist," Congress did not abandon its longstanding concern that subsistence hunting and fishing by Alaska Natives be protected.

As you know, both the U.S. Senate and House of Representatives passed an ANCSA bill, after which a Senate House Conference Committee blended the text of the two bills into the version of ANCSA enacted into law. Significantly, the declaration of policy in the Senate bill stated that one of the purposes of ANCSA was to protect "Native subsistence hunting, fishing, trapping and gathering rights." See

S. 35, sec. 2(a)(7), 92nd Cong., 1st Sess., (1971) reprinted at 117 Cong. Rec. 38,920 (1971). To implement that policy, sec. 21 of the Senate bill directed the Secretary of the Interior to designate public lands surrounding "native villages and groups" as "subsistence use units." In appropriate instances, the section then required the Secretary to close a unit to harvest "other than by residents of the unit for subsistence purposes."

At the request of the State of Alaska, the conferees deleted both the statement of policy and sec. 21 of the Senate bill from the version of ANCSA enacted into law. In their place, the conferees included the following language in the ANCSA Conference Report:

> The Senate amendment to the House bill provided for the protection of the Native peoples' interest in and use of subsistence resources on public lands. The Conference Committee, after careful consideration, believes that all Native interests in subsistence resource lands can and will be protected by the Secretary through exercise of his existing withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by non-residents when the subsistence resources of these lands are in short supply or otherwise threatened. The Conference Committee expects both the Secretary and the State to

take any action necessary to protect the subsistence needs of the Natives. (Emphasis added.)

See Conf. Rep. No. 746, 92nd Cong., 1st Sess. at 37 (1971).

When it enacted the Alaska National Interest Lands Conservation Act in 1980, Congress decided to establish a rural resident priority rather than an Alaska Native and rural resident priority. It did so for one reason: to enable the State of Alaska, acting through the Board of Game and Board of Fisheries, to continue to regulate the taking of fish and game on all lands and within all waters within the State.

Representing the State at the beginning of Congress' consideration of ANILCA in 1977, Governor Hammond told Congress that:

> fish and wildlife have little regard for bureaucratic boundaries and, so far as I am concerned, this is argument enough in itself against segmenting the management of a single species or population according to land ownership or user groups. Split management of a single living resource may make some marginal sense in the context of political science; but it makes absolutely no sense whatsoever in the context of biological science.

House Interior Hearings, Part XII at 417 (statement of Jay Hammond).

As soon as Congress agreed with Governor Hammond's argument, the State shifted its ground and urged Congress

not to require it to implement a Native priority. For example, after asserting that the State "should continue to be the primary statewide resident fish and wildlife manager," Ronald Somerville, an Alaska Department of Fish and Game employee speaking on the State's behalf, told Congress: "As the Alaska Native Claims Settlement Act specifically extinguishes all aboriginal hunting and fishing rights, there should be no ethnic rights reestablished specifically or in pseudo form." Alaska Lands: Hearings on H.R. 1652, et al., before the Subcomm. on Fisheries and Wildlife Conservation and the Environment of the House Comm. on Merchant Marine and Fisheries, 95th Cong., 1st Sess., Part 1 at 208 (1971) (statement of Ronald Somerville).

Congress adopted Mr. Somerville's suggested approach because it agreed with Governor Hammond's characterization of the subsistence problem, i.e. that the Board of Fisheries and Board of Game had failed to protect Native and non-Native residents of rural areas from unfair competition from urban hunters and fishermen for access to the increasingly limited harvestable surplus of fish stocks and game populations.

In explaining the situation to Congress, Governor Hammond first acknowledged "the perception that State regulation has either favored urban hunters too much, or not favored rural hunters enough when the difficult allocation decisions were made." He then conceded:

> State policy under this administration has explicitly stated that subsistence will have will have priority when there is a conflict and a thorough review of recent fish and wildlife regulations will show scores of cases where the local, rural user has been favored in regulation. Nevertheless, the perception persists, in some justification. (Emphasis added.)

House Interior Hearings, Part XII at 419.

AFN reluctantly agreed to support Congress' decision to adopt the State's suggested approach and establish a subsistence priority for rural residents, rather than Alaska Natives plus rural residents. While AFN continues to support that approach, it continues to do so reluctantly.

AFN supports the rural resident subsistence priority because, if properly implemented in good faith, a rural resident priority can remedy the problem Governor Hammond identified.

At its core, the subsistence problem is simple: too many Alaskans annually attempt to harvest too few fish and too few game animals. That being the case, the Alaska Legislature has two options. It can allow any Alaska resident who wishes to do so to hunt and fish, "first-come, first-served," until the harvestable surplus of a population or stock is taken at which time the hunting or fishing season is closed. Or it can allocate hunting and fishing opportunities among Alaska residents in a manner that beset

advances what the Legislature determines is the highest public interest.

Between 1960 and 1975 the Legislature delegated the Board of Fish and Game, and after 1976 the Board of Fisheries and Board of Game, near total discretion to allocate hunting and fishing opportunities in whatever manner the Boards thought appropriate. During those years, the Boards usually adopted "first-come, first-served" based regulations.

The "first-come, first-served" system severely disadvantaged residents of Native villages who depended on hunting and fishing to obtain a significant portion of their annual food requirements. Village residents were simply being overwhelmed by the increasingly large number of urban hunters and fishermen.

In 1978, two years prior to Congress' enactment of ANILCA, the Legislature enacted a comprehensive subsistence statute, ch. 151 SLA 1978, that established a subsistence priority. The Board of Fisheries and Board of Game subsequently determined jointly that the 1978 statute embodied a legislative intent to limit the Alaska subsistence priority to residents of rural areas.

When the Alaska Supreme Court decided in Madison v. Alaska Department of Fish and Game that the Legislature did not intend the 1978 statute to limit the subsistence priority to rural residents, in 1986 the Legislature enacted a statute that, on its face, limited the subsistence

priority to residents of "rural areas." Ch. 52 SLA 1986. It did so because, after a full and comprehensive debate during which all interested parties were afforded an opportunity to present their views, the Legislature concluded that a rural subsistence priority was the best solution to a difficult policy issue of the utmost public consequence.

The Alaska Supreme Court's decision in McDowell v. State in no way lessens that important legislative judgment.

For that reason, Mr. Chairman, AFN supports enactment of a constitutional amendment to authorize the State to again implement the policy it has implemented since 1978.

However, we do so with an important caveat.

In lieu of an Alaska Native subsistence priority, the Committee should consider amending the proposed constitutional amendment to, in addition to authorizing the Legislature to establish a rural resident priority, authorize the Legislature to establish a subsistence priority for hunters and fishermen who are members of identifiable groups who have a culture and tradition of subsistence use of fish and game in Alaska. Suggested technical language is attached to my testimony.

In conclusion, Mr. Chairman, on behalf of the AFN Board of Directors I again would like to express our appreciation for the opportunity to present AFN's views as to why the proposed constitutional amendment should be enacted and placed on the November 1990 election ballot. During the

weeks ahead, AFN and its member organizations look forward to continuing to work closely with you, other members of the Committee and the Legislature, the Governor and his staff and all other interested parties in this most important issue.

AMENDMENT TO HOUSE JOINT RESOLUTION NO. 88 (GOVERNOR'S BILL)

Line 14: Between "residents" and "," insert the following phrase:

"and members of identifiable groups who have a culture and tradition of subsistence use of fish and game in Alaska."

Line 15: Between "residents" and "on" insert the following phrase:

"and members of such groups"

STATE OF ALASKA

LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

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HOUSE OF REPRESENTATIVES

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OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTULIAK
TUNUNAK

April 21, 1990

THANK YOU MR. CHAIRMAN AND COMMITTEE MEMBERS.

FOR THE RECORD MY NAME IS MIKE SMITH, LEGISLATIVE ASSISTANT TO CHAIRMAN HOFFMAN.

MR. HOFFMAN RESPECTFULLY OFFERS THIS AMENDMENT TO HJR 74, AND WITH THE CHAIRMAN'S PERMISSION, I WILL BRIEFLY OUTLINE THE PROPOSED AMENDMENT.

CHAIRMAN HOFFMAN'S **PRIMARY INTENTION** WITH THIS AMENDMENT IS FOR THE STATE OF ALASKA TO RETAIN MANAGEMENT AUTHORITY OVER ITS FISH AND GAME RESOURCES.

THIS AMENDMENT WOULD NOT COMPEL THE LEGISLATURE TO PASS ANY SPECIFIC LAW. HOWEVER, THIS AMENDMENT WOULD ALLOW THE LEGISLATURE TO CONSIDER FEDERAL LAWS AND THEIR VARIOUS MANDATES AND, <u>IF THEY CHOOSE TO</u>, ENACT STATE LAWS ACCORDINGLY.

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AS THIS COMMITTEE IS WELL AWARE, THE SUPREME COURT'S "McDOWELL DECISION" IS WHY WE ARE HERE TODAY. THIS DECISION **THREATENS** OUR STATE WITH FEDERAL MANAGEMENT OF THE NATURAL RESOURCES OF ALASKA. HOWEVER, IMPORTANT TO THE DISCUSSIONS, THIS IS NOT A SUBSISTENCE PREFERENCE ISSUE, IT IS A STATEHOOD AND A STATE'S RIGHTS ISSUE.

THE SUPREME COURT DETERMINED THAT THE STATE CONSTITUTION PROHIBITS THE LEGISLATURE FROM ALLOCATING SUBSISTENCE RESOURCES BASED UPON RESIDENCY. WHETHER THE RESIDENCY WAS URBAN/RURAL WAS IRRELEVENT TO THEIR ANALYSIS. MR. HOFFMAN'S PROPOSED AMENDMENT MOVES AWAY FROM ANY CONSTITUTIONAL AMENDMENT THAT PROMOTES THE CONTROVERSIAL ISSUE OF THE URBAN/RURAL SPLIT.

A KEY PHRASE IN THE PROPOSED AMENDMENT IS "VALID FEDERAL LAWS". THIS LANGUAGE WOULD NOT STOP ANY OF THE AFFECTED GROUPS FROM SEEKING CHANGES IN 'ANILCA'.

THIS IS A IMPORTANT ASPECT OF THIS AMENDMENT BECAUSE THIS WOULD ALLOW THE LEGISLATURE TO CHANGE STATE STATUTES WHEN CHANGES TO 'ANILCA' OCCUR.

IF THE COURTS FIND 'ANILCA' INVALID, THEN AGAIN, WITH THIS PROPOSED AMENDMENT, THE ALASKA LEGISLATURE WOULD BE AUTHORIZED BY THE CONSTITUTION TO CHANGE THE LAWS ACCORDINGLY.

IN CONCLUSION, MR. CHAIRMAN, THIS AMENDMENT WOULD ALLOW ALASKA TO CHANGE ITS LAWS, REGARDLESS OF WHAT CONGRESS OR THE FEDERAL COURTS DO, IN ORDER TO RETAIN ALASKAN MANAGEMENT AUTHORITY OVER ALL WILD RENEWABLE NATURAL RESOURCES.

THANK YOU MR. CHAIRMAN,
I AM AVAILABLE FOR QUESTIONS IF THE COMMITTEE SO DESIRES.

Testimony: House Resources 4/20/90

Good afternoon. My name is Bob Hinman. I am here today representing the Territorial Sportsmen, Inc. of Juneau. Territorial Sportsmen is the oldest and one of the largest sportsmen's organizations in Alaska, with more than 1200 members.

Territorial Sportsmen are strongly opposed to any move to change our state constitution as a way of settling the subsistence question. We are not opposed to some type of preference for those really in need of fish and game for subsistence. But we are opposed to re-instituting a program that for over a decade has kept Alaskans divided, pitted neighbor against neighbor, and cost the state and its citizens tremendous amount of money.

We were relieved when the Alaska Supreme Court re-affirmed that ;the constitution of the state requires that all citizens have equal access under the law to natural resources. But now we find legislation such as this that would try to take away those constitutional guarantees and re-institute the same programs.

As some of you know, I was for 22 years an employee of the Department of Fish and Game, Division of Game, the last 10 as Deputy Director of the Division. (It should be clearly stated here that I DO NOT reflect the official viewpoint of the Department of Fish and Game, probably to the relief of both the Department and myself). I worked closely with the regulatory process and with the Board of Game and saw the implementation of the Federal/State subsistence law. I saw how basically unfair it was, how potentially damaging to our fish and game resources, and

how illogical it was. It could not, by law, be based on need, only on location of residence. Can anyone explain to me the fairness and logic of a resident of Sitka, even a highly paid government bureaucrat or a person just moved up to Sitka from Los Angeles, having a preference for hunting deer on Admiralty over ANY resident of the Juneau Borough, regardless of need or background? And this is the system we will get back if these moves to change the constitution succeed, because it is presently mandated by Title 8 of ANILCA.

The Territorial Sportsmen believe that the answer lies in changing Title 8 of ANILCA. We must have the flexibility there for the state to manage our fish and game, including provision for subsistence, as a sovereign state should have -- and all other states do have .

Many have said that we must do something NOW to avoid Federal management. I assure you that I am more adamantly opposed to Federal management than the average person -- but what do you think we have now? Or even more so, if the constitutional amendment or some similar scheme comes to be? As long as the state does not have the privilege of managing as it deems appropriate and must follow blindly the dictates of a federal agency, we have federal management in fact.

To change federal law (Title 8) we need a lot of help from outside the state. As long as it is a fight between us and the Secretary of Interior, with ostensible state management in place, folks outside aren't going to get very excited. But once the Feds overtly take over management on 50% of more of the state, a

lot of people in other states are going to become very interested indeed and become active in seeing the situation change.

I've been asked, what state law or system is a good alternative to the old subsistence law, that would still provide for subsistence needs. If I had the final answer to that, I'd be the Einstein of the resource world. But it seems to me it would have to be logical (urban/rural is not logical, as I've mentioned), be based on the individual, not his community or place of residence, and reflect need. Before the subsistence law divided Alaskan against Alaskan, the Board of Game used to accommodate these legitimate needs in a variety of ways, including:

Controlled Use Areas, in which the means of access (generally aircraft) are controlled to benefit local users;

Season timing, setting seasons at a time when it was convenient for only local residents to hunt;

Permit issuance limited to issuance only in remote locations.

The system generally worked fine, in that it did not legally prevent any citizen from participating, but it definitely tipped the scales in favor of the bush user. Perhaps some similar scheme could be reinstated to satisfy the genuine need for a subsistence preference for some users.

Thank you for the opportunity to testify.

ALASKA FEDERATION OF NATIVES, INC.

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AFN TESTIMONY TO STATE HOUSE RESOURCES COMMITTEE BY JULIE KITKA (APRIL 20, 1990)

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, LADIES AND GENTLEMEN:

I APPRECIATE THE OPPORTUNITY TO TESTIFY TODAY ON THE ISSUE OF SUBSISTENCE. I DO SO REPRESENTING THE BOARD OF DIRECTORS OF THE ALASKA FEDERATION OF NATIVES AND ITS CONSTITUENT ORGANIZATIONS AND COMMUNITIES. WHAT I WILL PRESENT TODAY IS THE CONSENSUS POSITION OF THE STATEWIDE ALASKA NATIVE COMMUNITY ON THE SUBJECT OF SUBSISTENCE AND AN EXPLANATION OF SEVERAL SPECIFIC LEGAL QUESTIONS WHICH ARISE UNDER IT.

THE FIRST THING I MUST TRY TO MAKE CLEAR IS THAT SUBSISTENCE IS MORE THAN A POLITICAL ISSUE. FOR NATIVE PEOPLE, SUBSISTENCE IS THE FOUNDATION OF CULTURE - A SET OF TRADITIONAL PRACTICES WHICH ARTICULATE OUR RELATIONSHIP TO THE LAND - A HERITAGE RECEIVED FROM OUR ANCESTORS WHICH WE MUST PASS ON TO OUR DESCENDENTS.

AS ALASKA NATIVES, WE FIND OURSELVES AT A CRITICAL JUNCTURE IN OUR CONTEMPORARY POLITICAL HISTORY. A PROFOUND CHALLENGE CONFRONTS US: HOW TO PROTECT OUR SUBSISTENCE LIFESTYLES AND PRACTICES FROM THE DAMAGE WROUGHT BY THE RECENT ALASKA SUPREME COURT DECISION IN MCDOWELL V. STATE. IN THE EFFORT TO PROTECT THE CULTURES AND ECONOMIES OF OUR VILLAGES, WE, LIKE ALL ALASKANS, FIND OURSELVES CAUGHT BETWEEN ANILCA, WHICH GUARANTEES A RURAL PRIORITY FOR SUBSISTENCE HUNTING AND FISHING, AND THE ALASKA CONSTITUTION, WHICH WILL NOT PRESENTLY ALLOW SUCH A PREFERENCE.

AS YOU KNOW, MR. CHAIRMAN, A WIDE VARIETY OF OPINION ABOUT WHAT SHOULD BE DONE TO SOLVE THIS DILEMMA HAS ARISEN WITHIN THE NATIVE COMMUNITY DURING THE PAST FOUR MONTHS. SOME NATIVE PEOPLE HAVE FAVORED AMENDING BOTH THE STATE CONSTITUTION AND ANILCA TO PROVIDE FOR A "NATIVE" SUBSISTENCE PRIORITY, FOR A "NATIVE-PLUS-RURAL" PRIORITY OR FOR OTHER ALTERNATIVES. OTHER NATIVE PEOPLE HAVE ADVOCATED AMENDING THE STATE CONSTITUTION, EITHER TO RE-ESTABLISH THE RURAL PRIORITY OR TO PERMIT THE LEGISLATURE TO KEEP FISH AND GAME MANAGEMENT IN STATE HANDS BY COMPLYING WITH FEDERAL LAW. THERE ARE POTENTIALLY MANY VARIATIONS ON THESE MAJOR THEMES. BUT ONE THING IS CERTAIN: NO ISSUE IN RECENT MEMORY HAS SO EFFECTIVELY GALVANIZED THE PARTICIPATION OF NATIVE PEOPLE IN THE POLITICAL PROCESS AS HAS THE FALL-OUT FROM MCDOWELL.

AS YOU ALSO KNOW, MR. CHAIRMAN, AFN SPONSORED A STATEWIDE NATIVE SUMMIT CONFERENCE ON SUBSISTENCE IN ANCHORAGE LAST WEEK. OUT OF THAT GATHERING, A BROAD POLICY CONSENSUS EMERGED. IT CONTAINED MANY DETAILED SUB-ISSUES, INCLUDING THE CALL FOR A THOROUGH EVALUATION OF STATE SUBSISTENCE MANAGEMENT, A CONTINGENCY POSITION REGARDING FEDERAL MANAGEMENT AND SEVERAL LONG-RANGE GOALS. BUT WITH REGARD TO THE LEGISLATION NOW PENDING BEFORE THIS COMMITTEE, THE CONFERENCE RESOLUTION WAS BRIEF AND TO THE POINT. IT DIRECTED ALL NATIVE ORGANIZATIONS TO "ACT TO GAIN APPROVAL OF AN AMENDMENT TO THE CONSTITUTION OF THE STATE OF ALASKA THAT ALLOWS THE STATE TO EXERCISE MANAGEMENT JURISDICTION OVER ALL FISH, WILDLIFE, PLANT AND OTHER RENEWABLE NATURAL RESOURCES WITHIN ITS BOUNDARIES AND PROVIDES THAT THE STATE SHALL EXERCISE MANAGEMENT OF SUBSISTENCE RESOURCES THEREIN IN ACCORDANCE WITH APPLICABLE FEDERAL LAW."

THAT IS THE HEART OF IT. THE STATEWIDE NATIVE COMMUNITY IS NOW <u>UNANIMOUSLY</u> ON RECORD IN FAVOR OF A CONSTITUTIONAL AMENDMENT TO KEEP FISH AND GAME MANAGEMENT IN THE HANDS OF THE STATE GOVERNMENT, IN COMPLIANCE WITH FEDERAL LAW. WE DO NOT - AND I EMPHASIZE <u>NOT</u> - WISH TO SEE A FEDERAL TAKEOVER AFTER JULY 1. SUCH A SCENARIO COULD ONLY BE THE RESULT OF A TRAGIC POLITICAL FAILURE IN ALASKA. WHAT NATIVES WANT IS FOR THE LEGISLATURE AND THE PEOPLE TO FIX THE ISSUE HERE, TO COMPLY WITH FEDERAL LAW AND TO KEEP FISH AND GAME MANAGEMENT AT HOME, IN ALASKAN HANDS.

IN ORDER TO ACCOMPLISH THIS, A CONSTITUTIONAL AMENDMENT MUST BE ADOPTED BY AT LEAST 2/3 OF BOTH HOUSES BEFORE ADJOURNMENT AND BY A MAJORITY OF THE VOTERS ON NOVEMBER 6. THERE ARE SEVERAL BILLS CURRENTLY BEFORE THIS COMMITTEE WHICH EFFECTIVELY PERFORM THAT FUNCTION. AFTER CAREFUL LEGAL REVIEW, WE RECOMMEND THAT THE LANGUAGE SUGGESTED BY REPRESENTATIVE LYMAN HOFFMAN BECOME THE VEHICLE FOR SUCH A CONSTITUTIONAL AMENDMENT. WE FURTHER RECOMMEND THAT IT BE INSERTED AS AN AMENDMENT TO ANY OF THE CURRENTLY PENDING BILLS WHICH THE COMMITTEE DEEMS APPROPRIATE.

WE URGE THE HOFFMAN LANGUAGE BECAUSE OF ITS EMPHASIS ON ALLOWING THE LEGISLATURE TO ENACT LAWS, CONSISTENT WITH VALID FEDERAL LAWS, WHICH WILL KEEP FISH AND GAME MANAGEMENT IN STATE HANDS. IF THAT IS THE FUNDAMENTAL PURPOSE OF ALL THIS, THEN THAT IS WHAT THE VOTERS SHOULD <u>READ</u> IN THE TEXT OF THE AMENDMENT WE ARE ASKING THEM TO APPROVE.

I ALSO WANT TO POINT OUT THAT THE HOFFMAN LANGUAGE IS "PERMISSIVE" TO THE LEGISLATURE. IT DOES NOT BIND STATE GOVERNMENT TO ANY SPECIFIC SUBSISTENCE POLICY - SUCH AS A STATED PRIORITY FOR ANY GROUP. ALL IT PROVIDES IS THE CONSTITUTIONAL AUTHORITY FOR THE LEGISLATURE TO COMPLY WITH FEDERAL LAW, A POWER IT DOES NOT PRESENTLY ENJOY. AFTER RECEIVING SUCH AUTHORITY FROM THE VOTERS, THE LEGISLATURE HAS EVERY RIGHT <u>NOT</u> TO EXERCISE IT, IF IT SO CHOOSES. THAT IS POLITICS. ALL THE AMENDMENT ITSELF WOULD DO IS TO CLEAR

AWAY THE CONSTITUTIONAL OBJECTION FOUND BY THE SUPREME COURT IN MCDOWELL AND TO GIVE THE LEGISLATURE A POLITICAL OPTION IT CANNOT NOW CHOOSE, EVEN TO SAVE ITS OWN CONTROL OF FISH AND GAME.

SEVERAL BRIEF TECHNICAL ISSUES ON THE HOFFMAN LANGUAGE NEED TO BE CLARIFIED: FIRST, WE HAVE RECENTLY HEARD THE CRITICISM THAT, SINCE THE HOFFMAN LANGUAGE IS PURPOSELY GENERAL IN SCOPE, AND SINCE THE THREE SECTIONS OF ARTICLE VIII OF THE STATE CONSTITUTION WHICH THE SUPREME COURT USED IN MCDOWELL TO INVALIDATE THE RURAL PRIORITY ARE SPECIFIC IN SCOPE, A FUTURE COURT MIGHT INTERPRET THE HOFFMAN LANGUAGE AS NOT SPECIFICALLY SUPERSEDING ANY OR ALL OF THOSE SECTIONS. THIS ARGUMENT IS SPECIOUS. THE HOFFMAN LANGUAGE CAREFULLY BEGINS WITH THE WORDS "NOTHING IN THIS CONSTITUTION." THAT MEANS WHAT IT SAYS. ALL ARTICLES AND SECTIONS WHICH THE SUPREME COURT FOUND VIOLATED IN MCDOWELL ARE IN THIS CONSTITUTION, AND WE FEEL CERTAIN THAT ANY FUTURE COURT WOULD FIND LIKEWISE.

A SECOND CRITICISM OF THE HOFFMAN LANGUAGE COULD BE THAT IT SHOULD SAY "ANILCA," RATHER THAN "FEDERAL LAW." WE DISAGREE. THE USE OF THE TERM "FEDERAL LAW" PROVIDES THE LEGISLATURE WITH THE BROADEST POSSIBLE AUTHORITY TO ACT. IT ASSURES THE ABILITY OF FUTURE LEGISLATURES, IF THEY SO WISH, TO ENACT LAWS IN COMPLIANCE WITH FUTURE FEDERAL FISH AND GAME STATUTES WHICH MIGHT OTHERWISE THREATEN A FEDERAL

MANAGEMENT TAKEOVER. AGAIN, THIS DOES NOT REQUIRE THE LEGISLATURE TO DO SO. IT GIVES IT THE FREEDOM TO ACT. IF THE LEGISLATURE WISHES TO NARROW THE SCOPE OF ITS PRESENT LEGISLATION TO ADDRESS ONLY ANILCA, THIS LANGUAGE WOULD ALLOW IT TO DO SO WITHOUT PUTTING UNNECESSARY LIMITATIONS ON THE AUTHORITY OF FUTURE LEGISLATURES TO ADDRESS - PRO OR CON - FUTURE FEDERAL ENACTMENTS.

ANOTHER CONCERN WHICH MIGHT BE RAISED IS THAT THE HOFFMAN LANGUAGE PROVIDES A "BLANK CHECK" TO THE FEDERAL GOVERNMENT TO IMPOSE FUTURE FEDERAL POLICY JUDGMENTS ON STATE FISH AND GAME MANAGEMENT. THE OBVIOUS RESPONSE IS THAT THE FEDERAL GOVERNMENT ALREADY HAS SUCH AUTHORITY, AS IT CLEARLY EXERCISED IN TITLE VIII OF ANILCA. WHAT THE HOFFMAN AMENDMENT WOULD DO IS TO ALLOW THE STATE TO ENACT LAWS WHICH KEEP FISH AND GAME MANAGEMENT IN STATE HANDS. NOTHING IN THE HOFFMAN LANGUAGE EITHER EXPANDS OR DIMINISHES THE LEGAL AUTHORITY OF THE UNITED STATES GOVERNMENT - NOR COULD IT.

I CANNOT OVERSTATE, MR. CHAIRMAN, THE IMPORTANCE OF ACTING EXPEDITIOUSLY. ADJOURNMENT OF THIS SESSION IS SCHEDULED IN LESS THAN THREE WEEKS. SEVEN DAYS AGO THE UNITED STATES FISH AND WILDLIFE SERVICE PUBLISHED IN THE FEDERAL REGISTER ITS FORMAL NOTICE OF "INTENTION TO PROPOSE INTERIM RULES IMPLEMENTING TITLE VIII OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT." WHY? AS INTERIOR SECRETARY LUJAN STATED AT OUR CONFERENCE LAST WEEK, THE UNITED STATES DOES

NOT WISH TO COME INTO ALASKA AND TAKE OVER FISH AND GAME MANAGEMENT ON FEDERAL LANDS. BUT IT WILL DO SO IF THERE IS NO SOLUTION AT THE STATE LEVEL BY JULY 1. THE INTERIOR DEPARTMENT IS NOW GEARING UP TO DO JUST THAT, AND FEDERAL LAW REQUIRES IT TO GO THROUGH A PUBLIC CONSULTATION PROCESS ON INTERIM AND PERMANENT RULE - MAKING. THE DEADLINE FOR RECEIPT OF RECOMMENDATIONS AND COMMENTS AT INTERIOR IS MAY 14.

IN ADDITION, THE DEPARTMENT OF THE INTERIOR IN ALASKA HAS BEEN AT WORK FOR ALMOST TWO MONTHS, THROUGH A SPECIAL DEPARTMENTAL TASK FORCE, DRAWING UP A PLAN FOR A FEDERAL MANAGEMENT TAKEOVER. BECAUSE THE NATIVE COMMUNITY IS NOT A PARTY TO THAT PROCESS, I CAN NOT TELL YOU WHAT THE PLAN WILL LOOK LIKE. BUT I AM CONVINCED THAT THE DEPARTMENT IS MOVING QUICKLY TO CARRY OUT ITS NON-DISCRETIONARY RESPONSIBILITY UNDER FEDERAL LAW.

ONE ADDITIONAL ISSUE, MR. CHAIRMAN, NEEDS TO BE AIRED. AS WE HEAD TOWARDS ADJOURNMENT, THE GREAT QUESTION IN EVERYONE'S MIND IS WHETHER BOTH HOUSES OF THIS LEGISLATURE WILL ADOPT SOME FORM OF CONSTITUTIONAL LANGUAGE TO KEEP FISH AND GAME IN ALASKAN HANDS, OR WHETHER THE BODY WILL TURN ITS BACK ON THE ISSUE AND GO HOME WITHOUT TAKING ACTION. A THIRD ALTERNATIVE, OF COURSE, IS THAT THE LEGISLATURE MIGHT BE PERSUADED TO ADOPT SOME FORM OF STATUTORY LANGUAGE WHICH, WHILE PERHAPS SATISFYING THE STATE CONSTITUTION, WOULD STILL

BE OUT OF COMPLIANCE WITH FEDERAL LAW. I URGE THE COMMITTEE TO SEE THAT EITHER OF THE LAST TWO OPTIONS REPRESENTS A FAILURE OF POLITICAL WILL AND WILL PRECIPITATE A LONG-TERM CRISIS OF FISH AND GAME MANAGEMENT IN ALASKA WHICH WE SHALL ALL COME TO REGRET.

THERE MAY BE, ON THE PART OF SOME LEGISLATORS, A CAREFULLY UNSPOKEN ASSUMPTION THAT WHAT REALLY NEEDS TO BE DONE - NO MATTER HOW LONG THE EFFORT AND HOW PAINFUL THE COST - IS TO FORCE THE CONGRESSIONAL OPENING OF ANILCA IN ORDER TO GET RID OF THE RURAL SUBSISTENCE PRIORITY. MY RESPONSE TO THAT SILENT AGENDA IS TWO-FOLD: FIRST, THAT IT SHOULD NOT BE SILENT; AND, SECOND, THAT IT WON'T WORK.

ON THE QUESTION OF SILENCE, LET ME SAY THAT ANY AGENDA WHICH ASSUMES THAT THE FINAL BLOW TO SUBSISTENCE CAN ONLY BE DELIVERED BY PURPOSEFULLY RAISING THE LEVEL OF REGULATORY CONFUSION, POLITICAL ANGER AND INDIVIDUAL PAIN IN THIS STATE TO A POINT WHERE THE MAJORITY WILL BE FORCED TO TURN ON THE MINORITY IS IRRESPONSIBLE. IF THIS SHOULD TURN OUT TO BE THE COURSE WHICH THE STATE OF ALASKA HONESTLY WISHES TO PURSUE, IT HAS EVERY RIGHT TO DO SO. BUT IT SHOULD SAY SO. IT SHOULD STEP OFF ON THAT PATH CONSCIOUSLY, KNOWING THE CONSEQUENCES AND SAYING THE TRUTH. NO ONE, IN GOOD FAITH, MAY KNOWINGLY ENGINEER A POLITICAL AND SOCIAL CRISIS AND LATER DESCRIBE IT AS HAVING BEEN UNAVOIDABLE OR UNINTENDED.

ON THE ISSUE OF POLITICAL FEASIBILITY, LET ME BE EQUALLY FRANK. I THINK IT IS HIGHLY UNLIKELY THAT THE UNITED STATES CONGRESS WILL OPEN ANILCA. BUT IF IT DOES, I CAN PROMISE YOU THAT ITS RECONSIDERATION OF THIS ENORMOUS FEDERAL STATUTE WILL NOT BE LIMITED TO SUBSISTENCE. ONCE YOU OPEN ANY PART OF IT, ALL OF ITS PROVISIONS BECOME FAIR GAME. SOME PEOPLE IN ALASKA OBVIOUSLY DO NOT BELIEVE THAT, BUT THE POLITICAL REALITY IS THAT THERE ARE DOZENS OF OUTSIDE INTERESTS (AND THEIR ADVOCATES IN THE CONGRESS) WHO WILL MAKE IT COME TRUE.

AT BEST, ANY AMENDING OF ANILCA WILL BE A THREE TO FIVE-YEAR PROCESS, DURING WHICH TIME THE FEDERAL GOVERNMENT WILL BE IN ALASKA ANYWAY, MANAGING MOST OF OUR FISH AND GAME. EVEN IF THE CONGRESSIONAL PROCESS STARTS WITH SUBSISTENCE, DOZENS OF OVERSIGHT HEARINGS, FLOOR SPEECHES, BILLS AND AMENDMENTS WILL EVENTUALLY REACH OUT AND TOUCH EVERY FEDERAL LAND USE QUESTION IN ALASKA. SENATOR STEVENS AND OTHER MEMBERS OF OUR CONGRESSIONAL DELEGATION HAVE DESCRIBED THAT SCENARIO IN STARK LANGUAGE. HOW MUCH DOES ALASKA REALLY WANT TO PAY TO THE REST OF THE COUNTRY IN ORDER TO GET RID OF THE SUBSISTENCE PRIORITY? HOW LONG WILL IT TAKE? AND WHAT WILL THE PERMANENT CONSEQUENCES BE FOR THE POLITICAL, ECONOMIC AND SOCIAL ENVIRONMENT OF OUR STATE?

I HAVE CONCLUDED THAT THE REAL OUTCOME OF AMENDING ANILCA WILL BE SO COSTLY TO THE STATE GOVERNMENT, TO THE STATEWIDE

BUSINESS COMMUNITY AND TO THE GENERAL PUBLIC THAT-ONCE THEY SEE IT-THEY WILL INSIST THAT THIS PANDORA'S BOX REMAIN CLOSED. FISH AND GAME IS GOING TO HAVE TO BE DEALT WITH HERE. I URGE ALL MEMBERS OF THE LEGISLATURE TO RECOGNIZE THAT THE UNSPOKEN AGENDA OF TARGETING ANILCA, INSTEAD OF AMENDING THE STATE CONSTITUTION, IS A PROCESS BY WHICH POLITICAL MISPERCEPTION PRODUCES BAD LAW.

IN CLOSING MR. CHAIRMAN, I WISH TO GO BACK TO A NATIVE PERSPECTIVE ON ALL OF THIS. DURING LAST WEEK'S STATEWIDE SUBSISTENCE CONFERENCE, ONE OF THE NATIVE ELDERS WHO SPOKE TO US WAS EDWARD HOPSON, AN INUPIAT ESKIMO LEADER FROM THE ARCTIC SLOPE REGION. I WANT TO QUOTE SEVERAL LINES FROM WHAT HE TOLD US, IN THE HOPE THAT HIS GOD-GIVEN ELOQUENCE MIGHT SUCCEED WHERE MY WORDS FAIL.

MR. HOPSON SAID:

"WE ALL HAVE A RESPONSIBILITY TO MANAGE THE RESOURCES AND THE ANIMALS GOD HAS PUT ON THIS EARTH. WE MIGHT ASK OURSELVES WHO ARE WE MANAGING IT FOR. IS THIS AN ISSUE OF WHO GETS TO TAKE THE LAST SEAL OR THE LAST CARIBOU? IS THIS AN ISSUE OF RETURNING TO A LIFESTYLE WHICH HUNTS WITH BOWS AND ARROWS OR LIVES WITHOUT MODERN CONVENIENCES? OR IS IT, MORE APPROPRIATELY, AN ISSUE OF KEEPING OUR CULTURE ALIVE AND DYNAMIC, NOT A MUSEUM RELIC? A CULTURE IS TO BE LIVED AND EXPERIENCED, NOT STUDIED AND OBSERVED.

"... HUNGER KNOWS NO LAW. WHEN OUR PEOPLE ARE HUNGRY THEY WILL HUNT AND FISH. WHEN THE DUCKS FLY, WE WILL HARVEST DUCKS. WHEN THE CARIBOU COME, WE WILL TAKE THEM. TO DO LESS WILL MEAN THE DEATH OF OUR PEOPLE. IT WILL MEAN THE DEATH OF BOTH SPIRIT AND BODY. TO ALLOW THE BODY ALONE TO LIVE ON WITH STORE-BOUGHT OR WESTERN MAN'S FOOD WILL SURELY SEE THE DEATH OF THE SPIRIT AND OF THE CULTURE OF THE PEOPLE. THE BODY WILL SOON FOLLOW. FOR OUR OLD PEOPLE IT WILL COME SOONER, AND PERHAPS FOR THEM IT WILL BE A MORE HUMANE DEATH. FOR THE YOUNGER PEOPLE IT WILL MEAN A SLOWER DEATH OF THE BODY, AND IT WILL COME FROM ALCOHOL, DRUGS AND CANCER THAT COMES FROM THESE FOODS AND FROM THE LOSS OF SPIRIT.

"...NO LAW CAN CREATE A CULTURE. WE MUST DO THAT OURSELVES AND WE MUST WORK CONSTANTLY TO PROTECT IT."

MR. CHAIRMAN, FOR ALASKA NATIVES SUBSISTENCE REPRESENTS EVERYTHING. WHAT IS BEING CONSIDERED IN THIS LEGISLATURE IS OUR ECONOMIC SURVIVAL, OUR CULTURAL IDENTITY AND OUR PHYSICAL AND PSYCHOLOGICAL HEALTH.

FROM THAT PERSPECTIVE, WE STRONGLY URGE THE LEGISLATURE TO ACT EXPEDITIOUSLY, TO ADOPT A CONSTITUTIONAL AMENDMENT IN COMPLIANCE WITH FEDERAL LAW AND TO MOVE FORWARD IN THE EFFORT TO RETAIN FISH AND GAME IN THE HANDS OF THOSE WHO KNOW BEST HOW TO MANAGE THEM - THE ALASKANS. THANK YOU.

Public Law 96-487
96th Congress

An Act

To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

Dec. 2, 1980
[H.R. 39]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

Alaska National Interest Lands Conservation Act.
16 USC 3101 note.

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TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

16 USC 3101.

SEC. 101. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on

freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

(d) This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

DEFINITIONS

SEC. 102. As used in this Act (except that in titles IX and XIV the following terms shall have the same meaning as they have in the Alaska Native Claims Settlement Act, and the Alaska Statehood Act)— 16 USC 3102. Post, pp. 2430, 2491. 43 USC 1601 note. 48 USC note prec. 21.

(1) The term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means lands the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act. 43 USC 1618.

(4) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(5) The term "Alaska Native Claims Settlement Act" means "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688), as amended. 43 USC 1601 note.

(6) The term "Native Corporation" means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.

43 USC 1602.

(7) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(8) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

43 USC 1613.

(9) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

(10) The term "Native Group" has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

(11) The term "Native land" means land owned by a Native Corporation or any Native Group and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native Group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

43 USC 1618.

(12) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(13) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890).

16 USC 1131 note.

(14) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339), as amended.

43 USC note prec. 21.

(15) The term "State" means the State of Alaska.

(16) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

43 USC 1602.

(17) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(18) The term "take" or "taking" as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

MAPS

Public inspection. 16 USC 3103.

SEC. 103. (a) The boundary maps described in this Act shall be on file and available for public inspection in the office of the Secretary or the Secretary of Agriculture with regard to the National Forest System. In the event of discrepancies between the acreages specified in this Act and those depicted on such maps, the maps shall be controlling, but the boundaries of areas added to the National Park, Wildlife Refuge and National Forest Systems shall, in coastal areas

not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

Publication in Federal Register. Filing with Speaker of House and President of Senate.

(b) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary.

Minor boundary adjustments, notification of Congress.

Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

(c) Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after the date of enactment of this Act, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

Administration by Interior Secretary. 16 USC 410hh.

SEC. 201. The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

Aniakchak National Monument. 16 USC 431 note.

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred and seventy-six thousand acres of public lands, as generally depicted on map numbered ANIA-90,005, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for, and populations of, fish and wildlife, including, but not limited to, brown/grizzly bears, moose, caribou, sea lions, seals, and other marine

mammals, geese, swans, and other waterfowl and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors. Subsistence uses by local residents shall be permitted in the monument where such uses are traditional in accordance with the provisions of title VIII.

Bering Land Bridge National Preserve.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of public land, as generally depicted on map numbered BELA-90,005, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including, but not limited to, marine mammals, brown/grizzly bears, moose, and wolves; subject to such reasonable regulations as the Secretary may prescribe, to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance with sound range management practices; to protect the viability of subsistence resources; and in a manner consistent with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel during periods of adequate snow cover within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

Cape Krusenstern National Monument. 16 USC 431 note.

(3) Cape Krusenstern National Monument, containing approximately five hundred and sixty thousand acres of public lands, as generally depicted on map numbered CAKR-90,007, and dated October 1979. The monument shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat for and populations of, birds, and other wildlife, and fish resources; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the monument in accordance with the provisions of title VIII.

Gates of the Arctic National Park.

(4)(a) Gates of the Arctic National Park, containing approximately seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980. The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity

and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering, and other wilderness recreational activities; and to protect habitat for and the populations of, fish and wildlife, including, but not limited to, caribou, grizzly bears, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII.

Post, p. 2422.

(b) Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this subsection.

(c) Upon the filing of an application pursuant to section 1104 (b), and (c) of this Act for a right-of-way across the Western (Kobuk River) unit of the preserve, including the Kobuk Wild and Scenic River, the Secretary shall give notice in the Federal Register of a thirty-day period for other applicants to apply for access.

Publication in Federal Register

(d) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act. Such analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. Such environmental and economic analysis shall be prepared in accordance with the procedural requirements of section 1104(e). The Secretaries in preparing the analysis shall consider the following—

Environmental and economic analysis.

42 USC 4332.

Post, p. 2459.

(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer or less severe adverse impacts upon the preserve.

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

(e) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of section 1107 of this Act.

(5) Kenai Fjords National Park, containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; and

Kenai Fjords National Park.

to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of mechanized equipment on the icefield for recreation.

Kobuk Valley National Park.

(6) Kobuk Valley National Park, containing approximately one million seven hundred and ten thousand acres of public lands as generally depicted on map numbered KOVA-90,009, and dated October 1979. The park shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in an undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bears, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the park in accordance with the provisions of title VIII. Except at such times when, and locations where, to do so would be inconsistent with the purposes of the park, the Secretary shall permit aircraft to continue to land at sites in the upper Salmon River watershed.

Post, p. 2422.

Lake Clark National Park.

(7)(a) Lake Clark National Park, containing approximately two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; and to protect habitat for and populations of fish and wildlife including but not limited to caribou, Dall sheep, brown/grizzly bears, bald eagles, and peregrine falcons.

(b) No lands conveyed to the Nondalton Village Corporation shall be considered to be within the boundaries of the park or preserve; if the corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner, and any such lands so acquired shall become part of the park or preserve, as appropriate. Subsistence uses by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of title VIII.

Post, p. 2422.

Noatak National Preserve.

(8)(a) Noatak National Preserve, containing approximately six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for, and populations of, fish

and wildlife, including but not limited to caribou, grizzly bears, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archaeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

(b) All lands located east of centerline of the main channel of the Noatak River which are—

(1) within

(A) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the village of Noatak, and 43 USC 1601 note.

(B) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph, 43 USC 1610.

(2) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(3) not conveyed to such Village or other Native Corporation before the final conveyance date, shall, on such final conveyance date, be added to and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the preceding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (1).

(9) Wrangell-Saint Elias National Park, containing approximately eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes, and streams, valleys, and coastal landscapes in their natural state; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and to provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII. Wrangell-Saint Elias National Park. *Post*, p. 2422.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and thirteen thousand acres of public lands, as generally depicted on map numbered YUCH-90,008, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, Yukon-Charley Rivers National Preserve.

including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcons and other raptorial birds, caribou, moose, Dall sheep, grizzly bears, and wolves; and in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area. Except at such times when and locations where to do so would be inconsistent with the purposes of the preserve, the Secretary shall permit aircraft to continue to land at sites in the Upper Charley River watershed.

ADDITIONS TO EXISTING AREAS

16 USC 410hh-1.

SEC. 202. The following units of the National Park System are hereby expanded:

Glacier Bay National Monument.

(1) Glacier Bay National Monument, by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978; furthermore, the monument is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect a segment of the Alsek River, fish and wildlife habitats and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather. Lands, waters, and interests therein within the boundary of the park and preserve which were within the boundary of any national forest are hereby excluded from such national forest and the boundary of such national forest is hereby revised accordingly.

Katmai National Monument.

(2) Katmai National Monument, by the addition of an area containing approximately one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,007, and dated July 1980; furthermore, the monument is hereby redesignated as "Katmai National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect habitats for, and populations of, fish and wildlife including, but not limited to, high concentrations of brown/grizzly bears and their denning areas; to maintain unimpaired the water habitat for significant salmon populations; and to protect scenic, geological, cultural and recreational features.

Mount McKinley National Park.

(3)(a) Mount McKinley National Park, by the addition of an area containing approximately two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980 and the whole is hereby redesignated as Denali National Park and Preserve. The park additions and preserve shall be managed for the following purposes, among others: To protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations; and to protect habitat

for, and populations of fish and wildlife including, but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wilderness recreational activities. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine. Subsistence uses by local residents shall be permitted in the additions to the park where such uses are traditional in accordance with the provisions in title VIII.

Post, p. 2422.

(b) The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park as generally depicted on a map entitled "Kantishna Hills/Dunkle Mine Study Area", dated October 1979, and report thereon to the Congress not later than three years from the date of enactment of this Act. The study and report shall evaluate the resources of the area, including but not limited to, fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and shall include those recommendations respecting resources and other relevant matters which the Council determines are necessary. In conjunction with the study required by this section, the Council, in consultation with the Secretary, shall compile information relating to the mineral potential of the areas encompassed within the study, the estimated cost of acquiring mining properties, and the environmental consequences of further mineral development.

Study.
Report to Congress.

(c) During the period of the study, no acquisition of privately owned land shall be permitted within the study area, except with the consent of the owner, and the holders of valid mining claims shall be permitted to operate on their claims, subject to reasonable regulations designed to minimize damage to the environment: *Provided, however*, That such lands or claims shall be subject to acquisition without the consent of the owner or holder if the Secretary determines, after notice and opportunity for hearing, if such notice and hearing are not otherwise required by applicable law or regulation, that activities on such lands or claims will significantly impair important scenic, wildlife, or recreational values of the public lands which are the subject of the study.

Land acquisition, notice and hearing.

GENERAL ADMINISTRATION

SEC. 203. Subject to valid existing rights, the Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 *et seq.*), and, as appropriate, under section 1313 and the other applicable provisions of this Act: *Provided, however*, That hunting shall be permitted in areas designated as national preserves under the provisions of this Act. Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this Act, in national monuments and parks. Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National

16 USC 410hh-2.

Post, p. 2483.

Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park and Preserve or Glacier Bay National Park and Preserve, as appropriate. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to any unit of the National Park System located in Alaska.

NATIVE SELECTIONS

16 USC 410hh-3.

43 USC 1616.

43 USC 1601 note.

SEC. 204. Valid Native Corporation selections, or lands identified for selection by Regional Corporations pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act, within the boundaries of the Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and this Act.

COMMERCIAL FISHING

16 USC 410hh-4.

SEC. 205. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including the use of public lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges, except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1979.

WITHDRAWAL FROM MINING

16 USC 410hh-5.

SEC. 206. Subject to valid existing rights, and except as explicitly provided otherwise in this Act, the Federal lands within units of the National Park System established or expanded by or pursuant to this Act are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

43 USC 1601 note.
43 USC 1611 note.
Post, p. 2543.

SEC. 301. For purposes of this title—

(1) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska Native Claims Settlement Act except as specifically modified by section 12(b)(1) of Public Law 94-204 and section 1432(c) of this Act.

(2) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 302 or 303 of this Act;

(B) any existing unit of the National Wildlife Refuge System in Alaska not included within any unit referred to in subparagraph (A);

(C) any unit of the National Wildlife Refuge System established in Alaska after the date of the enactment of this Act; or

(D) any addition to any unit described in subparagraphs (A), (B), or (C) above.

ESTABLISHMENT OF NEW REFUGES

SEC. 302. The following are established as units of the National Wildlife Refuge System:

(1) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately three million five hundred thousand acres of public lands as generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge", dated October 1979 and shall include the lands on the Alaska Peninsula transferred to and made part of the refuge pursuant to section 1427 of this Act. 16 USC 668dd note.

(B) The purposes for which the Alaska Peninsula National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, the Alaska Peninsula caribou herd, moose, sea otters and other marine mammals, shorebirds and other migratory birds, raptors, including bald eagles and peregrine falcons, and salmonoids and other fish;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) above, the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(2) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated July 1980. 16 USC 668dd note.

(B) The purposes for which the Becharof National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, salmon, migratory birds, the Alaskan Peninsula caribou herd and marine birds and mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

(I), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(3) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The purposes for which the Innoko National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, peregrine falcons, other migratory birds, black bear, moose, furbearers, and other mammals and salmon;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (I), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(4) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and thirty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Kanuti National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, white-fronted geese and other waterfowl and migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), and furbearers;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (I), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(5) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Koyukuk National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl and other migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), furbearers, and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(6) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on a map entitled "Nowitna National Wildlife Refuge", dated July 1980. 16 USC 668dd note.

(B) The purposes for which the Nowitna National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, trumpeter swans, white-fronted geese, canvasbacks and other waterfowl and migratory birds, moose, caribou, martens, wolverines and other furbearers, salmon, sheefish, and northern pike;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(7) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public land generally depicted on the map entitled "Selawik National Wildlife Refuge", dated July 1980. No lands conveyed to any Native Corporation shall be considered to be within the boundaries of the refuge; except that if any such corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner and any such acquired lands shall become public lands of the refuge. 16 USC 668dd note.

(B) The purposes for which the Selawik National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Western Arctic caribou herd (including participation in coordinated ecological studies and management of these caribou), waterfowl, shorebirds and other migratory birds, and salmon and sheefish;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

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(ii), water quality and necessary water quantity within the refuge.

(C) The Secretary shall administer the refuge in such a manner as will permit reindeer grazing uses, including the construction and maintenance of necessary facilities and equipment within the areas, which on January 1, 1976, were subject to reindeer grazing permits.

16 USC 668dd note.

(8) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred thousand acres of public land as generally depicted on a map entitled "Tetlin National Wildlife Refuge", dated July 1980. The northern boundary of the refuge shall be a line parallel to, and three hundred feet south, of the centerline of the Alaska Highway.

(B) The purposes for which the Tetlin National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, raptors and other migratory birds, furbearers, moose, caribou (including participation in coordinated ecological studies and management of the Chisana caribou herd), salmon and Dolly Varden;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge; and

(v) to provide, in a manner consistent with subparagraphs (i) and (ii), opportunities for interpretation and environmental education, particularly in conjunction with any adjacent State visitor facilities.

16 USC 668dd note.

(9) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of approximately eight million six hundred and thirty thousand acres of public lands as generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Yukon Flats National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, canvasbacks and other migratory birds, Dall sheep, bears, moose, wolves, wolverines and other furbearers, caribou (including participation in coordinated ecological studies and management of the Porcupine and Fortymile caribou herds) and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

(i), water quality and necessary water quantity within the refuge.

ADDITIONS TO EXISTING REFUGES

SEC. 303. The following areas, consisting of existing refuges and the additions made thereto, are established or redesignated as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of eleven existing refuges, including all lands (including submerged lands), waters and interests therein which were a part of such refuges and are hereby redesignated as subunits of the Alaska Maritime National Wildlife Refuge; approximately four hundred and sixty thousand acres of additional public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the coastal areas and adjacent seas of Alaska, and an undetermined quantity of submerged lands, if any, retained in Federal ownership at the time of statehood around Kodiak and Afognak Islands, as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated October 1979, including the— 16 USC 668dd note.

(i) Chukchi Sea Unit--including Cape Lisburne, Cape Thompson, the existing Chamisso National Wildlife Refuge, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the Chukchi Sea, but excluding such other offshore public lands within the Bering Land Bridge National Preserve. That portion of the public lands on Cape Lisburne shall be named and appropriately identified as the "Ann Stevens-Cape Lisburne" subunit of the Chukchi Sea Unit; Chukchi Sea Unit.

(ii) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands) National Wildlife Refuges, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Punuk Islands, Egg Island, King Island, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the Bering Sea; Bering Sea Unit

(iii) Aleutian Islands Unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands: Aleutian Islands Unit.

(iv) Alaska Peninsula Unit—including the existing Simeonof and Semidi National Wildlife Refuges, the Shumagin Islands, Sutwik Island, the islands and headlands of Puale Bay, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands south of the Alaska Peninsula from Katmai National Park to False Pass including such offshore lands incorporated in this unit under section 1427; and Alaska Peninsula Unit.

(v) Gulf of Alaska Unit—including the existing Forrester Island, Hazy Islands, Saint Lazaria and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor Island, Pye and Chiswell Islands, Ragged, Natoa, Chat, Chevel, Granite and Middleton Islands, the Trinity Islands, all named and unnamed islands, islets, rocks, reefs, spires, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood surrounding Kodiak and Afognak Islands and all other such public lands on islands, islets, rocks, reefs, spires and designated capes and headlands within the Gulf of Alaska, but excluding such Gulf of Alaska Unit.

lands within existing units of the National Park System, Nuka Island and lands within the National Forest System except as provided in section 1427 of this Act.

(B) The purposes for which the Alaska Maritime National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Any lands acquired pursuant to section 1417 of this Act shall be included as public lands of the Alaska Maritime National Wildlife Refuge.

16 USC 668dd note.

(2) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of the existing Arctic National Wildlife Range including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood and an addition of approximately nine million one hundred and sixty thousand acres of public lands, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated August 1980.

(B) The purposes for which the Arctic National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(3) IZEMBEK NATIONAL WILDLIFE REFUGE.—(A) The existing Izembek National Wildlife Range including the lands, waters and interests of that unit which shall be redesignated as the Izembek National Wildlife Refuge.

(B) The purposes for which the Izembek National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(4) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of the existing Kenai National Moose Range, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as the Kenai National Wildlife Refuge, and an addition of approximately two hundred and forty thousand acres of public lands as generally depicted on the map entitled "Kenai National Wildlife Refuge", dated October 1978, excluding lands described in P.L.O. 3953, March 21, 1966, and P.L.O. 4056, July 22, 1966, withdrawing lands for the Bradley Lake Hydroelectric Project. 16 USC 668dd note.

(B) The purposes for which the Kenai National Wildlife Refuge is established and shall be managed, include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge;

(iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and

(v) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife-oriented recreation.

(5) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the existing Kodiak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which is redesignated as the Kodiak Island Unit of the Kodiak National Wildlife Refuge, and the addition of all public lands on Afognak and Ban Islands of approximately fifty thousand acres as generally depicted on the map entitled "Kodiak National Wildlife Refuge", dated October 1978. The described public lands on Afognak Island are those incorporated in this refuge from section 1427 of this Act. 16 USC 668dd note.

(B) The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonoids, sea otters, sea lions and other marine mammals and migratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(6) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of the existing Cape Newenham National Wildlife Refuge, including lands, waters, and interests therein, which shall be redesignated as a unit of the Togiak National Wildlife Refuge, and an addition of approximately three million eight hundred and forty thousand acres of public lands, as generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Togiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, salmonoids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(7) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of the existing Clarence Rhode National Wildlife Range, Hazen Bay National Wildlife Refuge, and Nunivak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as units of the Yukon Delta National Wildlife Refuge and the addition of approximately thirteen million four hundred thousand acres of public lands, as generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Yukon Delta National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds, salmon, muskox, and marine mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within areas where such use is, and in a manner which is, compatible with the purposes of this refuge.

(D) Subject to reasonable regulation, the Secretary shall administer the refuge so as to not impede the passage of navigation and access by boat on the Yukon and Kuskokwim Rivers.

ADMINISTRATION OF REFUGES

SEC. 304. (a) Each refuge shall be administered by the Secretary, subject to valid existing rights, in accordance with the laws governing the administration of units of the National Wildlife Refuge System, and this Act.

Refuge use or easements.

(b) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose described in such section 4(d) unless such use (including but not limited to any oil and gas leasing permitted under paragraph (2)) or purpose is compatible with the purposes of the refuge. The Secretary shall prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that activities carried out under any use or easement granted under any authority are so compatible.

Regulations.

(c) All public lands (including whatever submerged lands, if any, beneath navigable waters of the United States (as that term is defined in section 1301(a) of title 43, United States Code) were retained in Federal ownership at the time of statehood) in each National Wildlife Refuge and any other National Wildlife Refuge System unit in Alaska are hereby withdrawn, subject to valid existing rights, from future selections by the State of Alaska and Native Corporations, from all forms of appropriation or disposal under the public land laws, including location, entry and patent under the mining laws but not from operation of mineral leasing laws.

Commercial fishing rights or privileges.

(d) The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges: *Provided*, That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant

expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.

(e) Where compatible with the purposes of the refuge unit, the Secretary may permit, subject to reasonable regulations and in accord with sound fisheries management principles, scientifically acceptable means of maintaining, enhancing, and rehabilitating fish stock.

Cooperative management agreements.

(f)(1) The Secretary is authorized to enter into cooperative management agreements with any Native Corporation, the State, any political subdivision of the State, or any other person owning or occupying land which is located within, or adjacent or near to, any national wildlife refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner or occupant in a manner compatible with the major purposes of the refuge to which such land pertains including the opportunity for continuation of subsistence uses by local rural residents.

(2) Each agreement shall—

(A) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (f)(1);

(B) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(C) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(D) set forth those services or other consideration which the Secretary agrees to provide the owner or occupant in return for the owner or occupant entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife and the protection, maintenance and enhancement of any special values of the land subject to the agreement;

(E) set forth such additional terms and conditions as the Secretary and the owner or occupant may agree to as being necessary and appropriate to carry out the management goals as set forth in subsection (f)(1); and

(F) specify the effective period of the agreement.

Comprehensive conservation plan.

(g)(1) The Secretary shall prepare, and from time to time, revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the fish and wildlife resources of the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, scenic, or wilderness value of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1305 and 1306 of this Act;

(D) present and potential requirements for access with respect to the refuge, as provided for in title XI; and

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(E) significant problems which may adversely affect the populations and habitats of fish and wildlife identified and described under subparagraph (A).

(3) Each plan shall—

(A) be based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values;

(ii) specify the programs for conserving fish and wildlife and the programs relating to maintaining the values referred to in paragraph (2)(B), proposed to be implemented within each such area; and

(iii) specify the uses within each such area which may be compatible with the major purposes of the refuge; and

(B) set forth those opportunities which will be provided within the refuge for fish and wildlife-oriented recreation, ecological research, environmental education and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the purposes of the refuge.

Public hearings.

(4) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of local villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan or revisions.

Publication in Federal Register.

(5) Before adopting a plan for any refuge, the Secretary shall issue public notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service and provide opportunity for public views and comment on the plan.

(6) With respect to refuges established, redesignated, or expanded by section 302 or 303 the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date;

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment; and

Conservation plan, submittal to congressional committees.

(D) in the case of any refuge established, redesignated, or expanded by this title with respect to which a wilderness review is required under this Act, at the same time the President submits his recommendation concerning such unit under such section to the Congress, the Secretary shall submit to the appropriate committees of the Congress the conservation plan for that unit.

PRIOR AUTHORITIES

SEC. 305. All proclamations, Executive orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by or described in section 302 or 303, be included within such refuge. All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

43 USC 1601 note.

SPECIAL STUDY

Caribou.
16 USC 3145 note.

SEC. 306. (a) The Congress finds that the barren-ground caribou are a migratory species deserving of careful study and special protection, and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance.

(b) The Secretary of the Interior shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, an ecological study of the barren-ground caribou herds north of the Yukon River and the herds that have been known to migrate between the United States and Canada, including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, composition and age structure, behavioral characteristics, habitats (including but not limited to calving, feeding, summering and wintering areas, and key migration routes) that are critical to their natural stability and productivity and the effects on the herds of development by man, predation, and disease. In conducting this study the Secretary shall review the experience of other Arctic circumpolar countries with caribou and is authorized to enter into such contracts as he deems necessary to carry out portions or all of this study.

Review.
Contracts.

TITLE IV—NATIONAL CONSERVATION AREA AND NATIONAL RECREATION AREA

ESTABLISHMENT OF STEESE NATIONAL CONSERVATION AREA

16 USC 460mm.

SEC. 401. (a) In order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality, the Steese National Conservation Area is hereby established.

(b) The Steese National Conservation Area shall include approximately one million two hundred twenty thousand acres of public lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

Land use plan, development.
16 USC 460mm-1.

43 USC 1701 note.

SEC. 402. (a) Subject to valid existing rights, the Secretary, through the Bureau of Land Management, shall administer the Steese National Conservation Area established in section 401 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 403.

(b) No public lands within the national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181-287) or the Materials Act of 1947, as amended (30 U.S.C. 601-603). Subject to valid existing rights, the minerals in Federal lands within national conservation areas are hereby withdrawn from location, entry, and patent under the United States mining laws (30 U.S.C. 22-54). Where consistent

43 USC 1716.

with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22-54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 403. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of public lands, as generally depicted on the map entitled "White Mountains National Recreation Area—proposed", and dated October 1978. Subject to valid existing rights, the Secretary shall administer the area in accordance with the provisions of section 1312 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

16 USC 460mm-2.

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43 USC 1716.

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

SEC. 404. (a) The term "unperfected mining claim" as used in this section, means a mining claim which is located on lands within the boundaries of the White Mountains National Recreation Area or Steese National Conservation Area established pursuant to this title with respect to which a valid mineral discovery within the meaning of the mining laws of the United States, was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

"Unperfected mining claim." 16 USC 460 mm-3.

(b) MORATORIUM ON CONTEST PROCEEDINGS.—Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided*, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the Steese National Conservation Area or the White Mountains National Recreation Area or any affected conservation system units established or expanded by this Act.

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

(d) VALIDITY DETERMINATION.—If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1982, the validity of each claim shall be determined as of the date of the patent application or September 30, 1982, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1982, shall submit to the Secretary within one hundred and eighty days after such date all mineral data compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided for in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) ACCESS TO CLAIMS.—Pursuant to the provisions of this section and section 1110 of this Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982.

(f) PREFERENCE RIGHTS.—The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on lands located within the boundaries of the Steese National Conservation Area, or the White Mountains National Recreation Area established by this title, shall be entitled during a two-year period after the date that the Secretary exercises his authority under section 402 or 1312 to open an area containing such claim to mining, (1) to a preference right to rerecord his claim under applicable law and to develop such claim under section 402 or (2) to obtain a lease to remove nonleasable minerals from the claim under section 1312.

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TITLE V—NATIONAL FOREST SYSTEM

ADDITIONS TO EXISTING NATIONAL FORESTS

16 USC 539.

Chugach National Forest.

SEC. 501. (a) The following units of the National Forest System are hereby expanded:

(1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately one million nine hundred thousand acres of public land, as generally depicted on the map

entitled "Chugach National Forest additions—proposed", and dated October 1978; and

(2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres of public lands, as generally depicted on the map entitled "Tongass National Forest additions—proposed", and dated October 1978. Tongass National Forest.

(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: *Provided*, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary. Special regulations.

MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

SEC. 502. Subject to valid existing rights, the minerals in public lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and the Act of March 4, 1917 (39 Stat. 1150; 16 U.S.C. 520), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. 16 USC 539a. 5 USC app.

MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

SEC. 503. (a) There is hereby established within the Tongass National Forest, the Misty Fjords National Monument, containing approximately two million two hundred and eighty-five thousand acres of public lands as generally depicted on a map entitled "Misty Fjords National Monument—Proposed", dated July 1980. 16 USC 431 note.

(b) There is hereby established within the Tongass National Forest, the Admiralty Island National Monument, containing approximately nine hundred and twenty-one thousand acres of public lands as generally depicted on a map entitled "Admiralty Island National Monument—Proposed", dated July 1980. 16 USC 431 note.

(c) Subject to valid existing rights and except as provided in this section, the National Forest Monuments (hereinafter in this section referred to as the "Monuments") shall be managed by the Secretary of Agriculture as units of the National Forest System to protect Management by Agriculture Secretary.

objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.

(d) Within the Monuments, the Secretary shall not permit the sale of harvesting of timber: *Provided*, That nothing in this subsection shall prevent the Secretary from taking measures as may be necessary in the control of fire, insects, and disease.

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(e) For the purposes of granting rights-of-way to occupy, use or traverse public land within the Monuments pursuant to title XI, the provisions of section 1106(b) of this Act shall apply.

(f)(1) Subject to valid existing rights and the provisions of this Act, the lands within the Monuments are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, including location, entry, and patent under United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations;

Valid mining claims.

(2)(A) After the date of enactment of this Act, any person who is the holder of any valid mining claim on public lands located within the boundaries of the Monuments, shall be permitted to carry out activities related to the exercise of rights under such claim in accordance with reasonable regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which the Monuments were established.

(B) For purposes of determining the validity of a mining claim containing a sufficient quantity and quality of mineral as of November 30, 1978, to establish a valuable deposit within the meaning of the mining laws of the United States within the Monuments, the requirements of the mining laws of the United States shall be construed as if access and mill site rights associated with such claim allow the present use of the Monuments' land as such land could have been used on November 30, 1978.

(g) MINING IN THE PARKS ACT.—The Act of September 28, 1976 (Public Law 94-249), shall not apply to the Monuments.

90 Stat. 1342.

(h)(1) Any special use permit for a surface access road for bulk sampling of the mineral deposit at Quartz Hill in the Tongass National Forest shall be issued in accordance with this subsection.

Mining development analysis document.

(2) The Secretary of Agriculture, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, shall prepare a document which analyzes mine development, concepts prepared by United States Borax and Chemical Corporation on the proposed development of a molybdenum mine in the Quartz Hill area of the Tongass National Forest. The draft of such document shall be completed within six months after the date of enactment of this Act and be made available for public comment. The analysis shall be completed within nine months after the date of enactment and the results made available to the public. This analysis shall include detailed discussions of but not necessarily be limited to—

Public availability.

(A) the concepts which are under consideration for mine development;

(B) the general foreseeable potential environmental impacts of each mine development concept and the studies which are likely to be needed to evaluate and otherwise address those impacts; and

(C) the likely surface access needs and routes for each mine development concept.

Environmental impact statement. 42 USC 4321 note.

(3) The Secretary shall prepare an environmental impact statement (EIS) under the National Environmental Policy Act of 1969 which covers an access road for bulk sampling purposes and the bulk

sampling phase proposed by United States Borax and Chemical Corporation in the Quartz Hill area. A draft of such EIS shall be completed within twelve months after the date of enactment of this Act. This EIS shall incorporate all relevant data and other information included in the EIS previously prepared by the Secretary on access to the Quartz Hill area. Such EIS shall also include but not necessarily be limited to—

(A) an evaluation of alternative surface access routes which may minimize the overall impact on fisheries of both access for bulk sampling and mine development access;

(B) an evaluation of the impacts of the alternatives on fish, wildlife, and their habitats, and measures which may be instituted to avoid or minimize negative impacts and to enhance positive impacts;

(C) an evaluation of the extent to which the alternatives can be used for, and the likelihood of each alternative being used as a mine development road, including the impacts of widening a road, realinements and other design and placement options; and

(D) plans to evaluate the water quality and water quantity, fishery habitat, and other fishery values of the affected area, and to evaluate, to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under a plan of operations of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components.

Administrative review

(4)(A) Within four months after the publication of the final environmental impact statement required in subsection (h)(3), the Secretary shall complete any administrative review of a decision on the proposal covered by the EIS and shall issue to the applicant a special use permit for a surface access road for bulk sampling unless he shall determine that construction or use of such a road would cause an unreasonable risk of significant irreparable damage to the habitats of viable populations of fish management indicator species and the continued productivity of such habitats. If the applicant should seek judicial review of any denial of the permit for a surface access road, the burden of proof on the issue of denying the permit shall be on the Secretary.

(B) The Secretary shall not issue a special use permit until after he has determined that the full field season of work for gathering base line data during 1981 has ended.

Judicial review

42 USC 4321 note

(5) It is the intent of Congress that any judicial review of any administrative action pursuant to this section, including compliance with the National Environmental Policy Act of 1969, shall be expedited to the maximum extent possible. Any proceeding before a Federal court in which an administrative action pursuant to this section, including compliance with the National Environmental Policy Act of 1969, is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days after the date the response to such challenge is filed unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(6) Upon application of the United States Borax and Chemical Corporation or its successors in interest, the Secretary shall permit the use by such applicant of such limited areas within the Misty Fjords National Monument Wilderness as the Secretary determines to be necessary for activities, including but not limited to the

installation, maintenance, and use of navigation aids, docking facilities, and staging and transfer facilities, associated with the development of the mineral deposit at Quartz Hill. Such activities shall not include mineral extraction, milling, or processing. Such activities shall be subject to reasonable regulations issued by the Secretary to protect the values of the monument wilderness.

(7) Within the Misty Fjords National Monument Wilderness the Secretary of Agriculture shall, to the extent he finds necessary, allow salvage, cleanup, or other activity related to the development of the mineral deposit at Quartz Hill, including activities necessary due to emergency conditions.

(8) Designation by section 703 of this Act of the Misty Fjords National Monument Wilderness shall not be deemed to enlarge, diminish, add, or waive any substantive or procedural requirements otherwise applicable to the use of offshore waters adjacent to the Monument Wilderness for activities related to the development of the mineral deposit at Quartz Hill, including, but not limited to, navigation, access, and the disposal of mine tailings produced in connection with such development.

Mineral deposits, mining or milling leases.

(i)(1) With respect to the mineral deposits at Quartz Hill and Greens Creek in the Tongass National Forest, the holders of valid mining claims under subsection (f)(2)(B) shall be entitled to a lease (and necessary associated permits) on lands under the Secretary's jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from such claims situated within the Monuments only if the Secretary determines—

(A) that milling activities necessary to develop such claims cannot be feasibly carried out on such claims or on other land owned by such holder;

(B) that the use of the site to be leased will not cause irreparable harm to the Misty Fjords or the Admiralty Island National Monument; and

(C) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

With respect to any lease issued under this subsection, the Secretary shall limit the size of the area covered by such lease to an area he determines to be adequate to carry out the milling process for the mineral bearing material on such claims.

(2) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

Lease termination.

(3) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(j) Special Use Permits and Facilities.—The Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either—

(1) fifteen years after the date of enactment of this Act, or

(2) the lifetime of the permittee, as designated in such permit as of January 1, 1979, or the surviving spouse or child of such permittee, whoever lives longer,

so long as the management of the lodge remains consistent with the purposes of the Admiralty Island National Monument.

UNPERFECTED MINING CLAIMS IN MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

SEC. 504. (a) DEFINITIONS.—As used in this section:

(1) The term "unperfected claim" means a mining claim:

(A) which is within the Misty Fjords or Admiralty Island National Monuments;

(B) with respect to which a valid mineral discovery, within the meaning of the mining laws of the United States, was not made as of November 30, 1978; and

(C) which was, as of such date, properly located, recorded, and maintained.

(2) The term "core claim" means—

(A) a patented mining claim; or

(B) an unpatented mining claim which—

(i) contained a valid mineral discovery within the meaning of the mining laws of the United States as of November 30, 1978, and

(ii) was, as of such date, properly located, recorded, and maintained.

(b) ENTITLEMENT.—Any holder of an unperfected mining claim who meets the requirements of this section shall be entitled as provided in this section—

(1) to receive an exploration permit with respect to such claim, and

(2) to receive a patent only to the minerals upon making a valid mineral discovery on such claim within the meaning of the mining laws of the United States.

(c) EXPLORATION PERMITS.—

(1) Permits authorizing the exploration of an unperfected mining claim shall be issued by the Secretary under this section upon application under subsection (d) if the Secretary determines that—

(A) an application for such permit has been submitted within two-hundred-seventy days after the date of the enactment of this Act and such application meets the requirements of subsection (d);

(B) the unperfected claim is within three-quarters of a mile of the exterior boundary of one or more core claims, and both the unperfected claim and core claim were held by the applicant as of May 1, 1979 (or were acquired by such applicant after such date by inheritance or devise); and

(C) the core claim and the unperfected claim which is within the area referred to in subsection (B) are properly located, recorded, and maintained, to the extent required by law, as of the date of the Secretary's determination under this subsection.

(2)(A) Each exploration permit issued under this section shall terminate on the date five years after the date of the enactment of this Act, or where applicable, the date provided under subparagraph (c)(2)(B). Termination.

(B) For any permit applicant, with respect to which the Secretary fails to meet the eighteen-month deadline under subsection (d) for any reason (including delays caused by administrative or judicial proceedings) beyond the control of the applicant, the exploration permit issued under this section shall terminate at the end of the period (after expiration of the five-years

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referred to in subparagraph (c)(2)(A)) as is equal to the time during which the Secretary failed to meet such deadline.

(3) Any permit under this section shall include such reasonable conditions and stipulations as may be required by the Secretary.

(d) APPLICATIONS FOR EXPLORATION PERMITS.—An application under subsection (b) shall contain—

(1) the applicant's name, address, and telephone number;

(2) the name of the claim, the date of location of the claim, the date of recordation of the claim, and the serial number assigned to such claim under the Federal Land Policy and Management Act of 1976; and

(3) evidence that the requirements of subparagraphs (B) and (C) of subsection (c)(1) are met.

Upon the Secretary's determination that the requirements of subsection (c) are met with respect to any claim, the Secretary shall issue an exploration permit for such claim not later than eighteen months after the date on which he receives the application under this subsection concerning such claim.

(e) VALID MINERAL DISCOVERY.—

(1) If the holder of an unperfected mining claim for which an exploration permit was issued under this section notifies the Secretary before the expiration of such permit, that he has made a valid mineral discovery within the meaning of the mining laws of the United States on such claim, and if it is determined that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States, together with a right to use so much of the surface of the lands on such claim as may be necessary for mining and milling purposes, subject to such reasonable regulations as the Secretary may prescribe for general application to mining and milling activities within the National Forest System.

(2) Any unperfected claim for which an exploration permit under this section was issued shall be conclusively presumed to be abandoned and shall be void upon expiration of such permit unless the owner of such claim has notified the Secretary in writing as provided in paragraph (e)(1).

(f) LEASES FOR MILLING PURPOSES.—

(1) The Secretary may issue leases (and necessary associated permits) on lands under the jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from any valid mining claim situated within the Misty Fjords or Admiralty Island National Monuments.

(2) A lease may be issued under this subsection if the Secretary determines—

(A) that the use of the site to be leased will not cause irreparable harm to the Monument; and

(B) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

(3) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

Termination.

(4) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(g) ACCESS TO MINING CLAIMS.—The holder of an unperfected mining claim with respect to which a valid mineral discovery is made under an exploration permit under this section shall be entitled to the same access rights as the holder of a valid mining claim is entitled to under section 1110. The holder of the unperfected claim with respect to which an exploration permit is in effect under this section shall be entitled to such adequate access, as described in section 1110 as may be necessary to carry out exploration under such permit. Post, p. 2464

(h) PUBLIC NOTICE.—The Secretary shall provide public notice of the requirements of this section not later than ninety days after the date of the enactment of this Act.

(i) SAVINGS PROVISION.—

(1) Nothing in this section shall impair any valid existing right.

(2) Nothing in this section diminishes authorities of the Secretary under any other provision of law to regulate mining activities.

(3) Nothing in this section shall be construed to affect, in any way, any other provision of Federal law outside the State of Alaska.

(j) This section shall not apply to any unperfected mining claim which is located within one mile of the center line of the Blossom River from its headwaters to its confluence with the Wilson Arm.

FISHERIES ON NATIONAL FOREST LANDS IN ALASKA

SEC. 505. (a) The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection. Regulations. 16 USC 539b. Assessment.

(b) Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine— Approved plan of operations, requirement.

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

Risk and benefit identification.

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values;

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

Review.

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

Activity suspension.

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Except as specifically provided in subsection (b)(5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

ADMIRALTY ISLAND LAND EXCHANGES

SEC. 506. (a)(1) Congress hereby recognizes the necessity to reconcile the national need to preserve the natural and recreational values of the Admiralty Island National Monument with the economic and cultural needs and expectations of Kootznoowoo, Incorporated, and

Sealaska, Incorporated, as provided by the Alaska Native Claims Settlement Act and this Act.

43 USC 1601 note.

(2) Nothing in this section shall affect the continuation of the opportunity for subsistence uses by residents of Admiralty Island, consistent with title VIII of this Act.

Kootznoowoo, Inc.

(3) Subject to valid existing rights, there is hereby granted to Kootznoowoo, Incorporated—

(A) all right, title, and interest in and to the following described lands, rocks, pinnacles, islands, and islets above mean high tide:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, 36;

Township 50 south, range 68 east, sections 30, 31, and that portion of section 32 south of Favorite Bay;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13;

Township 51 south, range 68 east, that portion of section 5 south of Favorite Bay, sections 6, 7, and 8, west half of section 9, northwest quarter of section 16; and north half of section 17; subject to those subsurface interests granted to Sealaska, Incorporated, in paragraph 7 herein, and subject to any valid existing Federal administrative sites within the area.

(B) The right to develop hydroelectric resources on Admiralty Island within township 49 south, range 67 east, and township 50 south, range 67 east, Copper River Base and Meridian, subject to such conditions as the Secretary of Agriculture shall prescribe for the protection of water, fishery, wildlife, recreational, and scenic values of Admiralty Island.

(C) All rights, title, and interest in and to the rocks, pinnacles, islands, and islets, and all the land from the mean high tide mark to a point six hundred and sixty feet inland of all shorelands, excluding the shores of lakes, in and adjacent to the inland waters from Kootznahoo Inlet to the rangeline separating range 68 east and range 69 east, Copper River Base and Meridian, and including those parts of Mitchell, Kanalku, and Favorite Bay west of that line, subject to the following reserved rights of the United States:

(i) All timber rights are reserved subject to subsistence uses consistent with title VIII of this Act.

(ii) The right of public access and use within such area, subject to regulation by the Secretary of Agriculture to insure protection of the resources, and to protect the rights of quiet enjoyment of Kootznoowoo, Incorporated, granted by law, including subsistence uses consistent with title VIII of this Act.

(iii) The subsurface estate.

(iv) The development rights, except that the Secretary of Agriculture is authorized to permit construction, maintenance, and use of structures and facilities on said land which he determines to be consistent with the management of the Admiralty Island National Monument: *Provided*, That all structures and facilities so permitted shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape.

(D) Any right or interest in land granted or reserved in paragraphs (3) (A, B, and C) shall not be subject to the provisions of the Wilderness Act.

16 USC 1131 note.

(E) The Secretary of Agriculture shall consult and cooperate with Kootznoowoo, Incorporated, in the management of Mitchell, Kanalku, and Favorite Bays, and their immediate environs, and the Secretary is authorized to enter into such cooperative arrangements as may further the purposes of this Act and other provisions of law, concerning, but not limited to: permits for any structures and facilities, and the allocation of revenues therefrom; regulation of public uses; and management of the recreational and natural values of the area.

(4) Subject to valid existing rights, Kootznoowoo, Incorporated is granted all right, title, and interest to the surface estate of twenty acres to be selected in one reasonably compact contiguous block in Basket Bay, township 48 south, range 65 east, sections 29, 30, 31, 32, and 33. Upon selection, the Secretary of the Interior shall issue an appropriate instrument of conveyance, subject to any trail easement which the Secretary of Agriculture may designate.

(5) Subject to valid existing rights, there is hereby withdrawn for the herein provided selection by Kootznoowoo, Incorporated, the following lands described by Value Comparison Units (VCU's) in the Tongass National Forest Land Management Plan: VCU's 677, 678, 680, 681, 682, and that portion of VCU 679 outside the area of the Lancaster Cove-Kitkun Bay Timber Sale, as such sale has been delineated by the United States Forest Service.

(A) Within one year of this Act, Kootznoowoo, Incorporated, shall select the surface estate to twenty-one thousand four hundred and forty acres from the lands withdrawn. The selection of such lands will be in compact tracts described in aliquot parts in accordance with the Alaska Native Claims Settlement Act land selection regulations of the Bureau of Land Management: *Provided*, That the Secretary of Agriculture may reserve for the benefit of the United States such easements as he deems necessary for access to and utilization of adjacent Federal or State lands. All timber within the confines of such easements shall be the property of Kootznoowoo, Incorporated; all rock, sand, and gravel within such easements shall be available to the Secretary of Agriculture without charge. The Secretary of the Interior shall issue appropriate documents of conveyance subject to and incorporating any easements designated by the Secretary of Agriculture. After conveyance to Kootznoowoo, Incorporated, of the twenty-one thousand four hundred and forty acres, with any designated easements, the herein provided withdrawal on the remaining public lands shall terminate.

43 USC 1601 note.

(B) Subject to valid existing rights, the subsurface estate in the lands conveyed to Kootznoowoo, Incorporated, pursuant to paragraph (5) shall be granted to Sealaska, Incorporated.

(6) Nothing in this Act shall restrict the authority of the Secretary of Agriculture to exchange lands or interests therein with Kootznoowoo, Incorporated, pursuant to section 22(f) of the Alaska Native Claims Settlement Act, or other land acquisition or exchange authority applicable to the National Forest System.

Sealaska, Inc.

(7) Subject to valid existing rights, all right, title, and interest to the subsurface estate to the following described lands shall be granted to Sealaska, Incorporated:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, and 36;
Township 50 south, range 68 east, sections 30, 31;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13; and

Township 51 south, range 68 east, sections 6 and 7; comprising one thousand six hundred acres, more or less.

(8)(A) The provisions of this section shall take effect upon ratification by appropriate resolution of all its terms by Kootznoowoo, Incorporated, or by its failure to take any action, within one hundred and eighty days of enactment of this Act. In the event that Kootznoowoo, Incorporated, disapproves by appropriate resolution the provisions of this section, this section shall be of no force and effect and Kootznoowoo, Incorporated, shall be entitled to its previous land selections on Admiralty Island pursuant to section 16 of the Alaska Native Claims Settlement Act. 43 USC 1615.

(B) In the event that the provisions of this section are duly ratified by Kootznoowoo, Incorporated, the lands, interests therein, and rights conveyed by this section shall constitute full satisfaction of the land entitlement rights of Kootznoowoo, Incorporated, and Sealaska, Incorporated, and be deemed to have been conveyed pursuant to the Alaska Native Claims Settlement Act, and shall supersede and void all previous land selections of Kootznoowoo, Incorporated, pursuant to section 16 of that Act, and any previous subsurface rights of Sealaska, Incorporated on Admiralty Island not otherwise conveyed by this Act. 43 USC 1601 note.

(C) Prior to the issuance of any instruments of conveyance, the Secretary of Agriculture and Kootznoowoo, Incorporated, may, by mutual agreement, modify the legal descriptions herein to correct clerical errors.

(b) The Secretary is authorized and directed to convey to Goldbelt, Incorporated, representing the Natives of Juneau with respect to their land entitlements under section 14(h)(3) of the Alaska Natives Claims Settlement Act, and to Sealaska, Incorporated, the lands and interests in lands described in paragraphs A and C of the Exchange Agreement, dated April 11, 1979, between those Corporations and the Departments of Agriculture and of the Interior on the terms of and conditions set forth in such agreement. Such conveyances shall not be subject to the provisions of the National Environment Policy Act of 1969 (83 Stat. 852), as amended. The terms of the Exchange Agreement, as filed with the Committee on Interior and Insular Affairs of the House of Representatives, are hereby ratified as to the duties and obligations of the United States and its agencies, Goldbelt, Incorporated, and Sealaska, Incorporated, as a matter of Federal law: *Provided*, That the agreement may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress. 43 USC 1613. 42 USC 4321 note. Notification of Congress.

(c)(1) In satisfaction of the rights of the Natives of Sitka, as provided in section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior, upon passage of this Act, shall convey subject to valid existing rights and any easements designated by the Secretary of Agriculture, the surface estate in the following described lands on Admiralty Island to Shee Atika, Incorporated: Shee Atika, Inc.

Copper River Meridian, Alaska

Township 45 south, range 66 east,

Sections 21, south half of the southeast quarter; 22, east half of the southwest quarter and southwest quarter of the southwest quarter; 26, southwest quarter of the southwest

quarter; 27, south half of the south half, and northwest quarter of the southwest quarter, and the west half of the northwest quarter; 28, all; 29, south half and the south half of the north half; 33, east half and east half of the west half and the southwest quarter of the southwest quarter; 34, all, excluding Peanut Lake; 35, west half of the west half;

Township 46 south, range 66 east,

Sections 1, southeast quarter of the southeast quarter, and the south half of the northwest quarter, and the north half of the southeast quarter, and the southwest quarter excluding Lake Kathleen; 2, south half excluding Lake Kathleen, and the south half of the north half excluding Lake Kathleen, and the northwest quarter of the northwest quarter; 3, all excluding Peanut Lake and Lake Kathleen; 4, west half, and the west half of the east half, and southeast quarter of the southeast quarter, and the east half of the northeast quarter, excluding Peanut Lake; 10, east half, excluding Lake Kathleen; 11, northwest quarter of the northwest quarter, excluding Lake Kathleen, and the northeast quarter of the northeast quarter, and south half of the southwest quarter; 12, north half excluding Lake Kathleen; 14, west half and southwest quarter of the southeast quarter; 15, north half of the northeast quarter and southeast quarter of the northeast quarter; 22, east half of the northeast quarter and northeast quarter of the southeast quarter; 23, west half and southeast quarter, and south half of the northeast quarter and northwest quarter of the northeast quarter; 24, southwest quarter of the southwest quarter; 25, all; 26, northeast quarter; 35, east half and east half of the southwest quarter, and southeast quarter of the northwest quarter; 36, north half, and north half of the south half;

Township 47 south, range 66 east,

Sections 2, east half and the east half of the west half; 11, south half excluding Lake Florence, and northeast quarter, and east half of the northwest quarter; 12, south half excluding Lake Florence, and the south half of the northwest quarter; 13, south half and the south half of the northeast quarter, and the southeast quarter of the northwest quarter, and the north half of the northwest quarter, excluding Lake Florence, and the northeast quarter of the northeast quarter, excluding Lake Florence; 14, north half of the north half excluding Lake Florence, and the east half of the southeast quarter; 23, northeast quarter of the northeast quarter; 24, north half of the north half;

Township 45 south, range 67 east,

Sections 21, southeast quarter of the southeast quarter; 22, south half of the southwest quarter; 27, west half of the west half, and east half of the northwest quarter, and the northeast quarter of the southwest quarter; 28, southeast quarter, and the south half of the northeast quarter, and the northeast quarter of the northeast quarter; 31, south half of the southeast quarter; 32, south half; 33, southwest quarter, and the south half of the northwest quarter, and the northeast quarter, and the north half of the southeast quarter, and the southwest quarter of the southeast quarter; 34, northwest quarter of the northwest quarter;

Township 46 south, range 67 east,

Sections 4, northwest quarter, and the west half of the northeast quarter; 5, north half and the north half of the south half, and the southwest quarter of the southwest quarter; 6, south half, and the northeast quarter, and the southeast quarter of the northwest quarter; 7, north half of the north half; 8, northwest quarter of the northwest quarter; 11, south half of the south half, and the north half of the southeast quarter, and the southeast quarter of the northeast quarter; 12, north half of the south half, and the south half of the north half; 14, west half, and the northeast quarter, and the northwest quarter of the southeast quarter; 15, southeast quarter, and the southeast quarter of the northeast quarter, and the southeast quarter of the southwest quarter; 19, south half of the south half, and the north half of the southeast quarter, and the northeast quarter of the southwest quarter; 20, south half; 21, south half, and south half of the north half; 22, west half, and the west half of the east half, and the east half of the northeast quarter, and the northeast quarter of the southeast quarter; 23, west half, and the southeast quarter, and the southwest quarter of the northeast quarter; 26, north half of the northeast quarter; 27, north half of the northwest quarter, and the northwest quarter of the northeast quarter; 28, north half, and the north half of the southwest quarter, and the northwest quarter of the southeast quarter, and the southwest quarter of the southwest quarter; 29, all; 30, all; 31, northwest quarter and the west half of the northeast quarter;

Township 47 south, range 67 east,

Sections 1, northwest quarter, and the west half of the northeast quarter; 2, north half of the south half, and the south half of the north half; 3, south half, and the southeast quarter of the northeast quarter; 7, north half of the northeast quarter, and the northeast quarter of the northwest quarter, and the south half excluding Lake Florence, and the south half of the north half excluding Lake Florence; 8, all, excluding Lake Florence; 9, southwest quarter excluding Lake Florence, and the west half of the northwest quarter excluding Lake Florence, and the northeast quarter of the northwest quarter excluding Lake Florence, and the west half of the east half, and the east half of the northeast quarter, and the southeast quarter of the southeast quarter; 10, north half of the northwest quarter; 15, west half of the southwest quarter; 16, west half, and the west half of the northeast quarter, and the north half of the southeast quarter, and the southeast quarter of the southeast quarter; 17, all; 18, all.

Concurrently with this conveyance, the Secretary shall convey the subsurface estate in the above described lands to Sealaska, Incorporated. As a condition to such conveyances, Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island other than those lands described in this subsection, and Sealaska, Incorporated, shall release any claim to subsurface rights on Admiralty Island which correspond to the land selection rights released by Shee Atika.

(2) In the instrument of conveyance provided for in paragraph (1), the Secretary of the Interior shall reserve such easements as are described in section 17(b)(1) of the Alaska Native Claims Settlement

43 USC 1618.

Act, as the Secretary of Agriculture may designate for public access to and utilization of the adjacent Federal lands.

Land selection costs, reimbursement.

43 USC 1613.

(d) In recognition of the considerable land selection costs incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act, and in identifying suitable lands for exchange outside Admiralty Island, the Secretary of the Interior shall reimburse those corporations for such reasonable and necessary land selection costs, including all costs for negotiating land exchanges, court costs, and reasonable attorney's and consultant's fees, incurred prior to the date of conveyance of land to such Native Corporations. Authorization for payment of such land selection costs shall begin in the fiscal year 1981, but shall include earlier costs.

Appropriation authorization.

There is authorized to be appropriated an amount not to exceed $2,000,000, for the purposes of this subsection.

COOPERATIVE FISHERIES PLANNING

16 USC 539c.

SEC. 507. (a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

16 USC 1600 note.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

Report to Congress.

TITLE VI—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

ADDITIONS

SEC. 601. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(25) ALAGNAK, ALASKA.—That segment of the main stem and the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Preserve; to be administered by the Secretary of the Interior.

"(26) ALATNA, ALASKA.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(27) ANIAKCHAK, ALASKA.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak

National Monument and National Preserve; to be administered by the Secretary of the Interior.

"(28) CHARLEY, ALASKA.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

"(29) CHILIKADROTNA, ALASKA.—That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(30) JOHN, ALASKA.—That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(31) KOBUK, ALASKA.—That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

"(32) MULCHATNA, ALASKA.—That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(33) NOATAK, ALASKA.—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

"(34) NORTH FORK OF THE KOYUKUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(35) SALMON, ALASKA.—That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

"(36) TINAYGUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(37) TLIKAKILA, ALASKA.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.".

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

ADDITIONS

SEC. 602. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(38) ANDREAFSKY, ALASKA.—That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(39) VIEHAK, ALASKA.—That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(40) NOWITNA, ALASKA.—That portion from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(41) SELAWIK, ALASKA.—That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the

confluence of the Kugarak River within the Selawik National Wildlife Refuge to be administered by the Secretary of the Interior.

"(42) SHEENJEK, ALASKA.—The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(43) WIND, ALASKA.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.".

PART C—ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

ADDITIONS

SEC. 603. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

"(44) ALAGNAK, ALASKA.—Those segments or portions of the main stem and Nonvianuk tributary lying outside and westward of the Katmai National Park/Preserve and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"(45) BEAVER CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

"(46) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east; to be administered by the Secretary of the Interior.

"(47) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

"(48) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"(49) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in

township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(50) UNALAKLEET, ALASKA.—The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.".

DESIGNATION FOR STUDY

SEC. 604. Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271), is further amended as follows: 16 USC 1276.

(a) After paragraph (76) insert the following new paragraphs:

"(77) Colville, Alaska.
"(78) Etivluk-Nigu, Alaska.
"(79) Utukok, Alaska.
"(80) Kanektok, Alaska.
"(81) Kisaralik, Alaska.
"(82) Melozitna, Alaska.
"(83) Sheenjek (lower segment), Alaska.
"(84) Situk, Alaska.
"(85) Porcupine, Alaska.
"(86) Yukon (Ramparts section), Alaska.
"(87) Squirrel, Alaska.
"(88) Koyuk, Alaska.".

(b) Section 5(b) of such Act is amended by adding the following paragraphs:

"(4) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from date of enactment of this paragraph. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) shall satisfy the requirements of this section. 42 USC 6505.

"(5) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 1204 of the Alaska National Interest Lands Conservation Act.". River studies, submittal to Congress.

Post, p. 2470.

ADMINISTRATIVE PROVISIONS

SEC. 605. (a) Rivers in paragraphs (25) through (37) in units of the National Park System, and (38) through (43) in units of the National Wildlife Refuge System are hereby classified and designated and shall be administered as wild rivers pursuant to the Wild and Scenic Rivers Act. 16 USC 1274 note. *Ante*, p. 2412. *Ante*, p. 2413. 16 USC 1271 note.

(b) The Alagnak, Beaver Creek, Birch Creek, Gulkana, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechemstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall

not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development in an environmentally sound manner, of asbestos deposits in the North Fork drainage.

(c) The following segments of the Fortymile River component are hereby classified and shall be administered as scenic river areas pursuant to such Act: the main stem within the State of Alaska; O'Brien Creek, South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; and Hutchinson Creek. The Wade Creek unit of the Fortymile component and the segment of the Delta River from opposite milepost 212 on the Richardson Highway to a point one-half mile north of Black Rapids are classified and shall be administered as recreational river areas pursuant to such Act.

16 USC 1274

(d) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title with respect to the Alagnak, Beaver Creek, Birch Creek, the Delta, Fortymile, Gulkana, and Unalakleet components. With respect to the river components designated in parts A and B of this title, the Secretary shall take such action under said section 3(b) at the same time as, and in coordination with, the submission of the applicable conservation and management plans for the conservation system units in which such components are located.

Ante, p. 2412, 2413.

Cooperative agreements.

(e) The Secretary may seek cooperative agreements with the owners of non-public lands adjoining the wild and scenic rivers established by this title to assure that the purpose of designating such rivers as wild and scenic rivers is served to the greatest extent feasible.

OTHER AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

SEC. 606. (a) The Wild and Scenic Rivers Act, as amended, is further amended by inserting the following after section 14 and redesignating sections 15 and 16 as sections 16 and 17, respectively:

16 USC 1286, 1287.

"SEC. 15. Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act—

16 USC 1285b. 16 USC 1274, 1280.

Ante, p. 2413.

"(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

"(2) the withdrawal made by paragraph (iii) of section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.".

Ante, p. 2371.

16 USC 1280

(b) Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which

constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.". *Ante*, p. 2415

16 USC 1278.

(c) Section 8(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.". 16 USC 1279. 43 USC 1601 note.

TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF WILDERNESS WITHIN NATIONAL PARK SYSTEM

SEC. 701. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the public lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in sections 201 and 202 of this Act are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below: 16 USC 1132.

(1) Denali Wilderness of approximately one million nine hundred thousand acres; 16 USC 1132 note.

(2) Gates of the Arctic Wilderness of approximately seven million and fifty-two thousand acres; 16 USC 1132 note.

(3) Glacier Bay Wilderness of approximately two million seven hundred and seventy thousand acres; 16 USC 1132 note.

(4) Katmai Wilderness of approximately three million four hundred and seventy-three thousand acres; 16 USC 1132 note.

(5) Kobuk Valley Wilderness of approximately one hundred and ninety thousand acres; 16 USC 1132 note.

(6) Lake Clark Wilderness of approximately two million four hundred and seventy thousand acres; 16 USC 1132 note.

(7) Noatak Wilderness of approximately five million eight hundred thousand acres; and 16 USC 1132 note.

(8) Wrangell-Saint Elias Wilderness of approximately eight million seven hundred thousand acres. 16 USC 1132 note.

DESIGNATION OF WILDERNESS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 702. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the public lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in sections 302 and 303 of this Act or the maps specified below are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below: 16 USC 1132.

(1) Aleutian Islands Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Aleutian Islands Wilderness", dated October 1978; 16 USC 1132 note.

16 USC 1132 note.

(2) Andreafsky Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge" dated April 1980;

16 USC 1132 note.

(3) Arctic Wildlife Refuge Wilderness of approximately eight million acres as generally depicted on a map entitled "Arctic National Wildlife Refuge" dated August 1980;

16 USC 1132 note.

(4) Becharof Wilderness of approximately four hundred thousand acres as generally depicted on a map entitled "Becharof National Wildlife Refuge" dated July 1980;

16 USC 1132 note.

(5) Innoko Wilderness of approximately one million two hundred and forty thousand acres as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated October 1978;

16 USC 1132 note.

(6) Izembek Wilderness of approximately three hundred thousand acres as generally depicted on a map entitled "Izembek Wilderness", dated October 1978;

16 USC 1132 note.

(7) Kenai Wilderness of approximately one million three hundred and fifty thousand acres as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated October 1978;

16 USC 1132 note.

(8) Koyukuk Wilderness of approximately four hundred thousand acres as generally depicted on a map entitled "Koyukuk National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(9) Nunivak Wilderness of approximately six hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(10) Togiak Wilderness of approximately two million two hundred and seventy thousand acres as generally depicted on a map entitled "Togiak National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(11) Semidi Wilderness of approximately two hundred and fifty thousand acres as generally depicted on a map entitled "Semidi Wilderness", dated October 1978;

16 USC 1132 note.

(12) Selawik Wilderness of approximately two hundred and forty thousand acres as generally depicted on a map entitled "Selawik Wildlife Refuge", dated July 1980; and

16 USC 1132 note.

(13) Unimak Wilderness of approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Unimak Wilderness", dated October 1978.

DESIGNATION OF WILDERNESS WITHIN NATIONAL FOREST SYSTEM

16 USC 1132.

SEC. 703. (a) In accordance with subsection 3(c), of the Wilderness Act (78 Stat. 892), the public lands within the Tongass National Forest within the boundaries depicted as "Proposed Wilderness" on the maps referred to in the following paragraphs are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

16 USC 1132 note.

(1) Admiralty Island National Monument Wilderness of approximately nine hundred thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated July 1980;

16 USC 1132 note.

(2) Coronation Island Wilderness of approximately nineteen thousand one hundred and twenty-two acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

16 USC 1132 note.

(3) Endicott River Wilderness of approximately ninety-four thousand acres, as generally depicted on a map entitled "Endicott River Wilderness", dated October 1978;

(4) Maurille Islands Wilderness of approximately four thousand four hundred and twenty-four acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978; 16 USC 1132 note.

(5) Misty Fjords National Monument Wilderness of approximately two million one hundred and thirty-six thousand acres, as generally depicted on a map entitled "Misty Fjords Wilderness", dated July 1980; 16 USC 1132 note.

(6) Petersburg Creek-Duncan Salt Chuck Wilderness of approximately fifty thousand acres, as generally depicted on a map entitled "Petersburg Creek-Duncan Salt Chuck Wilderness", dated October 1978; 16 USC 1132 note.

(7) Russell Fjord Wilderness of approximately three hundred and seven thousand acres, as generally depicted on a map entitled "Russell Fjord Wilderness", dated July 1980; 16 USC 1132 note.

(8) South Baranof Wilderness of approximately three hundred and fourteen thousand acres, as generally depicted on a map entitled "South Baranof Wilderness", dated October 1978; 16 USC 1132 note.

(9) South Prince of Wales Wilderness of approximately ninety-seven thousand acres, as generally depicted on a map entitled "South Prince of Wales Wilderness", dated October 1978; 16 USC 1132 note.

(10) Stikine-LeConte Wilderness of approximately four hundred and forty-three thousand acres, as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated October 1978; 16 USC 1132 note.

(11) Tebenkof Bay Wilderness of approximately sixty-five thousand acres, as generally depicted on a map entitled "Tebenkof Bay Wilderness", dated October 1978; 16 USC 1132 note.

(12) Tracy Arm-Fords Terror Wilderness of approximately six hundred and fifty-six thousand acres, as generally depicted on a map entitled "Tracy Arm-Fords Terror Wilderness", dated January 1979; 16 USC 1132 note.

(13) Warren Island Wilderness of approximately eleven thousand three hundred and fifty-three acres, as generally depicted on a map entitled "Coronation-Warren-Maurelle Islands Wilderness", dated October 1978; and 16 USC 1132 note.

(14) West Chichagof-Yakobi Wilderness of approximately two hundred and sixty-five thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated October 1978. 16 USC 1132 note.

(b) Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.

DESIGNATION OF WILDERNESS STUDY AREA WITHIN NATIONAL FOREST SYSTEM

SEC. 704. In furtherance of the purposes of the Wilderness Act the Secretary of Agriculture shall review the public lands depicted as "Wilderness Study" on the following described map and within three years report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all areas within such wilderness study boundaries for preservation of wilderness: Nellie Juan-College Fiord, Chugach National Forest as generally depicted on a map entitled "Nellie Juan-College Fiord Study Area", dated October 1978. 16 USC 1132 note. 16 USC 1132.

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NATIONAL FOREST TIMBER UTILIZATION PROGRAM

16 USC 539d.

SEC. 705. (a) The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least $40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided*, That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.

31 USC 1401 note.

Forest materials purchasers, loan program.

(b)(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

Appropriation authorization.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated $5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

Study, transmittal to Congress.

(c) Within three years after the date of enactment of this Act, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).

16 USC 1604.

REPORTS

Transmittal to congressional committees. 16 USC 539e.

SEC. 706. (a) The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. If, at any time after the date of enactment of this Act, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.

Review and report to Congress.

(b) Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeast-

ern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; and (4) the status of the small business set aside program in the Tongass Forest.

(c) The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

ADMINISTRATION

SEC. 707. Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

RARE II RELEASE

SEC. 708. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in Alaska and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest lands in States other than Alaska, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Alaska;

(2) with respect to the National Forest lands in the State of Alaska which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act or the area listed in section 704 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle; 16 USC 1600 note. 16 USC 1600 note.

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be

managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

16 USC 3111.

SEC. 801. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

43 USC 1601 note.

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

16 USC 3112.

SEC. 802. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized

scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so; *Ante*, p. 2377.

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

DEFINITIONS

SEC. 803. As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. For the purposes of this section, the term— 16 USC 3113.

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

PREFERENCE FOR SUBSISTENCE USES

SEC. 804. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria: 16 USC 3114. Priority criteria.

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

LOCAL AND REGIONAL PARTICIPATION

16 USC 3115.

SEC. 805. (a) Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary in consultation with the State shall establish—

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Regional advisory council, authority.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this title in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

Annual report to Secretary.

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported

by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

Implementation.

(d) The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision.

Reimbursement to States.

(e)(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

Report to Congress.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 804.

FEDERAL MONITORING

Report to congressional committees.
16 USC 3116.

Sec. 806. The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as

he deems necessary of his views on the effectiveness of the implementation of this title including the State's provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

JUDICIAL ENFORCEMENT

Civil actions. 16 USC 3117.

SEC. 807. (a) Local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority for subsistence uses set forth in section 804 (or with respect to the State as set forth in a State law of general applicability if the State has fulfilled the requirements of section 805(d)) may, upon exhaustion of any State or Federal (as appropriate) administrative remedies which may be available, file a civil action in the United States District Court for the District of Alaska to require such actions to be taken as are necessary to provide for the priority. In a civil action filed against the State, the Secretary may be joined as a party to such action. The court may grant preliminary injunctive relief in any civil action if the granting of such relief is appropriate under the facts upon which the action is based. No order granting preliminary relief shall be issued until after an opportunity for hearing. In a civil action filed against the State, the court shall provide relief, other than preliminary relief, by directing the State to submit regulations which satisfy the requirements of section 804; when approved by the court, such regulations shall be incorporated as part of the final judicial order, and such order shall be valid only for such period of time as normally provided by State law for the regulations at issue. Local residents and other persons and organizations who are prevailing parties in an action filed pursuant to this section shall be awarded their costs and attorney's fees.

Hearing.

(b) A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.

(c) This section is the sole Federal judicial remedy created by this title for local residents and other residents who, and organizations which, are aggrieved by a failure of the State to provide for the priority of subsistence uses set forth in section 804.

PARK AND PARK MONUMENT SUBSISTENCE RESOURCE COMMISSIONS

16 USC 3118.

SEC. 808. (a) Within one year from the date of enactment of this Act, the Secretary and the Governor shall each appoint three members to a subsistence resources commission for each national park or park monument within which subsistence uses are permitted by this Act. The regional advisory council established pursuant to section 805 which has jurisdiction within the area in which the park or park monument is located shall appoint three members to the commission each of whom is a member of either the regional advisory council or a local advisory committee within the region and also engages in subsistence uses within the park or park monument. Within eighteen months from the date of enactment of this Act, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or park monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or

Subsistence hunting program.

investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local advisory committees and regional advisory councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or park monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or park monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

Program and recommendation implementation.

(b) The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the conservation of healthy populations of wildlife in the park or park monument, is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

COOPERATIVE AGREEMENTS

SEC. 809. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title. 16 USC 3119.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 810. (a) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency— 16 USC 3120.

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and Hearing.

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

Notice and hearings.
42 USC 4332.

(b) If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

(c) Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

48 USC note prec. 21.
43 USC 1601 note.

(d) After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

ACCESS

16 USC 3121.

SEC. 811. (a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

RESEARCH

16 USC 3122.

SEC. 812. The Secretary, in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with, and make use of, the special knowledge of local residents engaged in subsistence uses; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 805, and other appropriate persons and organizations.

PERIODIC REPORTS

Submittal to Speaker of House and President of Senate.
16 USC 3123.

SEC. 813. Within four years after the date of enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 806;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local advisory councils and regional advisory councils established by the Secretary or the State pursuant to section 805, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public. Publication in Federal Register.

REGULATIONS

SEC. 814. The Secretary shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this title. 16 USC 3124.

LIMITATIONS, SAVINGS CLAUSES

SEC. 815. Nothing in this title shall be construed as— 16 USC 3125.

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or enlarging or diminishing the Secretary's authority to manipulate habitat on any portion of the public lands;

(3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd-jj), the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1, 2, 3, 4), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531-1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a-754), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801-1882), the Federal

Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777-777K), or any amendments to any one or more of such Acts.

CLOSURE TO SUBSISTENCE USES

16 USC 3126.

SEC. 816. (a) All national parks and park monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence uses and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title and other applicable laws of the United States and the State of Alaska.

(b) Except as specifically provided otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

Publication in Federal Register.

TITLE IX—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

SUBMERGED LANDS STATUTE OF LIMITATION

43 USC 1631.

SEC. 901. (a) Notwithstanding any other provision of law, the ownership by a Native Corporation or Native Group of a parcel of submerged land conveyed to such Corporation or Group pursuant to the Alaska Native Claims Settlement Act or this Act, or a decision by the Secretary of the Interior that the water covering such parcel is not navigable, shall not be subject to judicial determination unless a civil action is filed in the United States District Court within five years after the date of execution of the interim conveyance if the interim conveyance was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the interim conveyance was executed on or before the date of enactment of this Act. If a parcel of submerged land was conveyed by a patent rather than an interim conveyance, the civil action described in the preceding sentence shall be filed within five years after the date of execution of the patent if the patent was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the patent was executed on or before the date of enactment of this Act. The civil action described in this

43 USC 1601 note.

subsection shall be a de novo determination of the ownership of the parcel which is the subject of the action.

(b) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of water covering a parcel of submerged land selected by a Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act unless a determination by the Bureau of Land Management that the water covering a parcel of submerged land is not navigable was validly appealed to such agency or board prior to the date of enactment of this Act. The execution of an interim conveyance or patent (whichever is executed first) by the Bureau of Land Management conveying a parcel of submerged land to a Native Corporation or Native Group shall be the final agency action with respect to a decision by the Secretary of the Interior that the water covering such parcel is not navigable, unless such decision was validly appealed prior to the date of enactment of this Act to an agency or board of the Department of the Interior other than the Bureau of Land Management.

43 USC 1601 note.

(c) If the court determines that a parcel of submerged land which is the subject of a civil action described in subsection (a) is owned by the Native Corporation or Native Group to which it was conveyed pursuant to the Alaska Native Claims Settlement Act or this Act, each defendant Native Corporation and Native Group shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

Costs and attorney fees.

43 USC 1601 note.

(d) No Native Corporation or Native Group shall be determined to have been conveyed its acreage entitlement under the Alaska Native Claims Settlement Act until—

(1) the statutes of limitation set forth in subsection (a) have expired with respect to every parcel of submerged land conveyed to such Corporation or Group; and

(2) a final judgment or order not subject to an appeal has been obtained in every civil action filed pursuant to subsection (a).

(e)(1) Whenever a parcel of submerged land to be conveyed to a Native Corporation or Native Group is located outside the boundaries of a conservation system unit such Corporation or Group and the State of Alaska may mutually agree that such parcel may be selected by and conveyed to the State under the provisions of section 6(b) of the Alaska Statehood Act.

Agreements or reconveyances with State.

48 USC note prec. 21.

(2) In any instance in which the State could have selected a parcel of submerged land pursuant to an agreement between the State and a Native Corporation or Native Group pursuant to paragraph (1) if such parcel had not previously been conveyed to such Corporation or Group, such Corporation or Group is authorized to reconvey such parcel to the Secretary, and the Secretary shall accept such reconveyance. If the surface estate and subsurface estate of such parcel are owned by different Native Corporations or Native Groups, every Corporation and Group with an interest in such parcel shall reconvey its entire interest in such parcel to the Secretary.

(3) In any agreement made between a Native Corporation or Native Group and the State of Alaska pursuant to paragraph (1), and in any reconveyance executed by a Native Corporation or Native Group pursuant to paragraph (2), each affected Corporation or Group shall disclaim its interest in the parcel which is the subject of the agreement or reconveyance. If such parcel underlies a lake having a surface area of fifty acres or greater or a stream having a width of three chains or greater, the Secretary shall determine the acreage

contained in the parcel. If such parcel underlies a lake having a surface area of less than fifty acres or a stream having a width of less than three chains, the Secretary, the State, and the affected Native Corporation or Native Group shall determine the acreage contained in the parcel by mutual agreement. The affected Native Corporation or Native Group shall receive replacement lands in an amount equal to the acreage of the parcel as determined by the processes set forth in this paragraph.

(4) Upon receipt by the Secretary of an agreement executed pursuant to paragraph (1) or a reconveyance executed pursuant to paragraph (2), the parcel which is the subject of the agreement or reconveyance shall be deemed vacant, unappropriated, and unreserved public land available for selection by the State pursuant to section 6 of the Alaska Statehood Act, and the State is authorized to file a land selection application for such parcel pursuant to section 6(b) of the Alaska Statehood Act. The acreage within such parcel shall be charged against the State's land entitlement. If the water covering a parcel of submerged land selected by or conveyed to the State pursuant to this subsection is later determined (without regard to the statutes of limitation contained in this section) by a court of competent jurisdiction to be navigable and title to such parcel to be vested in the State pursuant to section 6(m) of the Alaska Statehood Act, such selection or conveyance shall not diminish the State's land entitlement under section 6(b) of the Alaska Statehood Act, nor shall such judicial determination of navigability affect the land entitlement of any Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act. Land selections made by the State pursuant to this subsection shall not be subject to the size limitations of section 6(g) of the Alaska Statehood Act or this Act. Notwithstanding the survey requirements of section 6(g) of the Alaska Statehood Act and section 13 of the Alaska Native Claims Settlement Act, no ground survey or monumentation shall be required on any parcel selected by and conveyed to the State or excluded from a conveyance to any Native Corporation or Native Group pursuant to this subsection.

48 USC note prec. 21.

43 USC 1601 note.

43 USC 1612.

Replacement acreage.

(5) Any Native Corporation or Native Group which is entitled to receive conveyance of replacement acreage in lieu of acreage within a parcel of submerged land relinquished or reconveyed pursuant to this subsection shall receive conveyance of such replacement acreage from among existing selections made by such Corporation or Group pursuant to the Alaska Native Claims Settlement Act or this Act. If such selections are insufficient to fulfill the acreage entitlement of such Corporation or Group pursuant to the Alaska Native Claims Settlement Act, the provisions of section 1410 shall apply to such Corporation or Group, but no land within the boundaries of a conservation system unit shall be withdrawn for such Corporation or Group pursuant to section 1410 unless such land was withdrawn under section 11(a) of the Alaska Native Claims Settlement Act. Any replacement acreage conveyed to a Native Corporation or Native Group from lands withdrawn pursuant to section 1410 shall be subject to the provisions of sections 12, 14, 16, 17, and 22 of the Alaska Native Claims Settlement Act.

43 USC 1601 note. *Post*, p. 2496.

43 USC 1610.

43 USC 1611, 1613, 1615, 1616, 1621.

(f) The procedures and statutes of limitation set forth in this section shall not apply to administrative or judicial determinations of the navigability of water covering a parcel of submerged land other than a parcel conveyed to a Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act or this Act.

43 USC 1601 note.

(g) As used in this section, the terms "navigable" and "navigability" mean navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States, pursuant to the Submerged Lands Act of 1953 (67 Stat. 29), and section 6(m) of the Alaska Statehood Act. "Navigable." "Navigability."

43 USC 1301 note.

(h) Notwithstanding any other provision of law, any civil action contesting the legality or authority of the United States to legislate on the subject matter of this section shall be barred unless the complaint is filed within one year after the date of enactment of this Act. The purpose of this limitation on suits is to ensure that, after the expiration of a reasonable period of time, the right, title, and interest of Native Corporations and Native Groups in submerged lands conveyed to them under the Alaska Native Claims Settlement Act and this Act will vest with certainty and finality and may be relied upon by such Corporations and Groups and all other persons in their relations among themselves and with the State and the United States. 48 USC note prec. 21. 43 USC 1601 note.

STATUTE OF LIMITATIONS

SEC. 902. (a) Except for administrative determinations of navigability for purposes of determining ownership of submerged lands under the Submerged Lands Act, a decision of the Secretary under this title or the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or the date of enactment of this Act, whichever is later: *Provided*, That the party seeking such review shall first exhaust any administrative appeal rights. 43 USC 1632. 43 USC 1301 note.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in regulations promulgated by the Secretary. 43 USC 1613.

ADMINISTRATIVE PROVISIONS

SEC. 903. (a) LIMITATIONS CONCERNING EASEMENTS.—With respect to lands conveyed to Native Corporations or Native Groups the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles: 43 USC 1633. 43 USC 1616.

(1) all easements should be designed so as to minimize their impact on Native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

(b) ACQUISITION OF FUTURE EASEMENTS.—Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. 43 USC 1601 note. 43 USC 1621.

(c) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were 30 USC 181 note.

43 USC 1613.

filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after the date of enactment of this Act to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) as part of the entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

43 USC 1604, note, 1605 note, 1611 note, 1613 and note, 1615, 1616, 1618 note, 1620, 1621, 1625 and note, 1626, 1627, 1628.

(d) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94-456 and 95-178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

43 USC 1621.

TAX MORATORIUM EXTENSION

SEC. 904. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provided*, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

43 USC 1613.

Ante, p. 2371.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.".

ALASKA NATIVE ALLOTMENTS

SEC. 905. (a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe either land that was unreserved on December 13, 1968, or land within the National Petroleum Reserve—Alaska (then identified as Naval Petroleum Reserve No. 4) are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor. 43 USC 1634. 43 USC 270-1—270-3.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (43 U.S.C. 270-11). Applications.

(3) When on or before the one hundred and eightieth day following the effective date of this Act the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided*, That "nonmineral", as that term is used in such Act, is defined to include land valuable for deposits of sand or gravel. "Nonmineral."

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an allotment application describes land which has been patented or deeded to the State of Alaska or which on or before December 18, 1971, was validly selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection and subsection (d) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act, and other applicable law. 43 USC 1610. 43 USC 270-1—270-3. 43 USC 1601 note.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the Corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the

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State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

Conflicting allotment applications.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further*, That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

Amended land descriptions.

(c) An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*,

That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Where the land described in an allotment application pending before the Department of the Interior on or before December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however,* That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further,* That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further,* That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after the effective date of this Act if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended, or other Act of Congress.

43 USC 270-1—270-3.

41 Stat. 1063. 16 USC 791a.

16 USC 818.

16 USC 791a.

(e) Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting national forest lands.

43 USC 1601 note, 48 USC note prec. 21, 43 USC 270-1—270-3.

STATE SELECTIONS AND CONVEYANCES

SEC. 906. (a) EXTENSION OF SELECTION PERIOD.—(1) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

48 USC note prec. 21.

48 USC note prec. 21.

(2) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-

43 USC 1635.

five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

48 USC note prec. 21.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsections (j) and (k) of section 6 of the Alaska Statehood Act.

(c) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

43 USC 1610, 1611.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

Land patents.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(d) PRIOR STATE SELECTIONS.—(1) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (l) of this section, which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary except those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary. If any of those townships listed above contain lands within the bound-

48 USC note prec. 21.

43 USC 1601 note.

aries of any conservation system unit, national conservation area, national recreation area, new national forest or forest addition, established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) In furtherance of the State's entitlement to lands under section 6(a) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all valid land selections made from the national forests under authority of said section 6(a) which have been approved by the Secretary of Agriculture prior to July 1, 1979. 48 USC note prec. 21. 43 USC 1601 note.

(3) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. Tentative approvals. 48 USC note prec. 21.

(4) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(5) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. Land patents.

(6) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. 43 USC 1601 note.

(e) FUTURE "TOP FILINGS".—Subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such applications, available within the meaning of section 6 (a) or (b) of the Alaska Statehood Act, other than lands within any conservation system unit or the National Petroleum Reserve—Alaska. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsection (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government. 48 USC note prec. 21.

(f) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections

under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

Relinquishments.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

48 USC note prec. 21.

48 USC note prec. 21.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after Janunry 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(g) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests and forest additions, established, designated, or expanded by this Act, which are specified in the list entitled "State Selection Lands May 15, 1978", dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such list which are not, on the date of enactment of this Act, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section, to the extent such an application could have been filed under such subsection (e).

(h) LIMITATION OF CONVEYANCES OF SPECIFIED LANDS TENTATIVE APPROVALS; SURVEYS.—(1) Lands identified in subsection (g) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (l) of this section.

43 USC 1601 note.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) on the basis of protraction surveys in lieu

of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(i) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuance of tentative approval. 48 USC note prec. 21.

(j) CLASSIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act; 43 USC 1616.

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act; 43 USC 1610. 43 USC 1611, 1613, 1618.

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987);

(4) classifications or designations pursuant to the National Forest Management Act (90 Stat. 2949) as amended; and 16 USC 1600 note.

(5) classifications, withdrawals exceeding 5,000 acres (except withdrawals exceeding 5,000 acres which the Congress, by concurrent resolution, approves within 180 days of the withdrawal or the effective date of this Act, whichever occurs later), or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743). 43 USC 1701 note.

(k) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State: 48 USC note prec. 21.

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary. Contracts.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses

originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

43 USC 1608.
48 USC note prec. 21.

(l) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States prior to selection of the underlying lands by the State of Alaska.

43 USC 1601 note.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

Administration.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the

United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act. 43 USC 1608. 48 USC note prec. 21.

(m) EXTINGUISHMENT OF CERTAIN TIME EXTENSIONS.—Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections. 43 USC 1616.

(n) EFFECT ON THIRD-PARTY RIGHTS.—(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 94-178). 43 USC 1611 note. 43 USC 1611 note. 43 USC 1611 note.

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subject to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State, to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12(b) of the Act of January 2, 1976 (Public Law 94-204), as amended.

(3) Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise. 48 USC note prec. 21.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or other interference with, aboriginal interests if any, occurring prior to December 18, 1971.

(o) STATUS OF LANDS WITHIN UNITS.—(1) Notwithstanding any other provision of law, subject to valid existing rights any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation, or unless before the date of the enactment of this Act, such land has been validly selected by, and after the date of enactment of this Act is conveyed to the State. At such time as the entitlement of any Native Corporation to land under the Alaska Native Claims Settlement Act is satisfied, any land within a conservation system unit selected by such Native Corporation shall, to the extent that such land is in excess of its entitlement, become part of such unit and administered accordingly: *Provided*, That nothing in this subsection shall necessarily preclude the future conveyance to the State of those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary: *Provided further*, That nothing in this subsection shall affect any conveyance to the State pursuant to subsections (b), (c), (d), or (g) of this section. 43 USC 1616. 43 USC 1601 note.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit, National Recreation Area, National Con-

servation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

43 USC note prec. 21.

(p) PYK LAKE.—The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (g) of this section but shall apply to future State selections.

43 USC note prec. 21.

ALASKA LAND BANK

43 USC 1636.

SEC. 907. (a) ESTABLISHMENT; AGREEMENTS.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (c)(2) whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That lands not owned by landowners described in subsection (c)(2) shall not be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not insist on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) TERMS OF AGREEMENT.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

43 USC 1613.

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in

subsection (c)(2) shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions in paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands. Land management.

(3) If the surface landowner so consents, such lands may be made available for local or other recreational use: *Provided*, That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner— Program withdrawal.

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(c) BENEFITS TO PRIVATE LANDOWNERS.—So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control,

resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

43 USC 1601 note.

(2) As to Native Corporations and all other persons or groups that have received or will receive lands or interests therein pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

(A) adverse possession;

(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided*, That such immunity shall cease if the lands involved are leased or developed, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act;

Ante, p. 2434.

(C) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native Group or any officer, director, or stockholder of any such Corporation or Group. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native Corporation or Group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

Publication in Federal Register.

(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided*, That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsections (c)(2)(C).

(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law.

(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 901 and 902 of this title for a period of three years from the date of conveyance or the date of enactment of this Act, whichever is later: *Provided*, That this subsection shall not apply to any lands which on the date of enactment of this Act are the subject of a mortgage, pledge or other encumbrance.

43 USC 1601 note.

(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.

43 USC 1620.

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 908. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection: 43 USC 1614.

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.". *Ante*, p. 2371. "Contingency area."

USE OF PROTRACTION DIAGRAMS

SEC. 909. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram. 43 USC 1637. 43 USC 1601 note.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 910. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act. 43 USC 1638. 42 USC 4321 note. 43 USC 1613.

TECHNICAL AMENDMENT TO PUBLIC LAW 94-204

SEC. 911. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended— 43 USC 1611 note.

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township

41 south, range 53 west, sections 1, 2, 11, 12, 13 S. M., Alaska, notwithstanding:" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S. M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE X—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

OVERALL STUDY PROGRAM

16 USC 3141.

SEC. 1001. (a) The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than lands included in the National Petroleum Reserve—Alaska and in conservation system units established by this Act.

(b) The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, the North Slope Borough, the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval. Public review and comment.

(e) The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act. The Secretary shall submit annual reports to Congress on the progress in carrying out this title. Report to President and Congress.

(f) Nothing in this title shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act, and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act. 48 USC note prec. 21. 43 USC 1601 note.

ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN RESOURCE ASSESSMENT

SEC. 1002. (a) PURPOSE.—The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources. 16 USC 3142.

(b) DEFINITIONS.—As used in this section—

(1) The term "coastal plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980.

(2) The term "exploratory activity" means surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain.

(c) BASELINE STUDY.—The Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons, shall conduct a continuing study of the fish and wildlife (with special emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat. In conducting the study, the Secretary shall—

(A) assess the size, range, and distribution of the populations of the fish and wildlife;

(B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;

(C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;

(D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and

(E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Results and revisions, publication.

Within eighteen months after the enactment date of this Act, the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) GUIDELINES.—(1) Within two years after the enactment date of this Act, the Secretary shall by regulation establish initial guidelines governing the carrying out of exploratory activities. The guidelines shall be based upon the results of the study required under subsection (c) and such other information as may be available to the Secretary. The guidelines shall include such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife, their habitats, or the environment, including, but not limited to—

(A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;

(B) temporary or permanent closing of appropriate areas to such activity;

(C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and

(D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

(2) The initial guidelines prescribed by the Secretary to implement this subsection shall be accompanied by an environmental impact statement on exploratory activities. The initial guidelines shall thereafter be revised to reflect changes made in the baseline study and other appropriate information made available to the Secretary.

(e) EXPLORATION PLANS.—(1) After the initial guidelines are prescribed under subsection (d), any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as "exploration plans") to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines, including, but not limited to—

(A) a description and schedule of the exploratory activity proposed to be undertaken;

(B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;

(C) the area in which the activity would be undertaken; and

(D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

Publication in Federal Register.

(2) Upon receiving any exploration plan for approval, the Secretary shall promptly publish notice of the application and the text of the plan in the Federal Register and newspapers of general circulation in the State. The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d). If the

Secretary determines that the plan is so consistent, he shall approve the plan; except that no plan shall be approved during the two-year period following the date of enactment of this Act. Before making the determination, the Secretary shall hold at least one public hearing in the State for purposes of receiving the comments and views of the public on the plan. The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h). The Secretary, as a condition of approval of any plan under this section—

Public hearing.

Approval condition.

(A) may require that such modifications be made to the plan as he considers necessary and appropriate to make it consistent with the guidelines;

(B) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Secretary; and

(C) shall make such data and information available to the public except that any processed, analyzed and interpreted data or information shall be held confidential by the Secretary for a period of not less than two years following any lease sale including the area from which the information was obtained.

(f) MODIFICATION TO EXPLORATION PLANS.—If at any time while exploratory activity is being carried out under an exploration plan approved under subsection (e), the Secretary, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect fish or wildlfe, their habitat, or the environment, the Secretary may suspend the carrying out of activities under the plan or permit for such time, make such modifications to the plan or to the terms and conditions of the permit (or both suspend and so modify) as he determines necessary and appropriate.

(g) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated any provision of a plan approved under subsection (e) or any term or condition of a permit issued under subsection (f), or to have committed any act prohibited under subsection (d) shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The

Review.

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findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) REPORT TO CONGRESS.—Not earlier than five years after the enactment date of this Act and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) EFFECT OF OTHER LAWS.—Until otherwise provided for in law enacted after the enactment date of this Act, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

PROHIBITION ON DEVELOPMENT

16 USC 3142.

SEC. 1003. Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

Report to President. 16 USC 3144.

SEC. 1004. (a) As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the

Federal lands described in section 1001 and report his findings to the President.

(b) The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries. Presidential recommendations to Congress.

(c) Subject to valid existing rights and the provisions of section 1002 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

SEC. 1005. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd. 16 USC 3145. Consultation with Canadian Government.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

SEC. 1006. In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider— 16 USC 3146.

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route; and

(3) the environmental and economic costs and other values associated with such alternative routes.

ARCTIC RESEARCH STUDY

SEC. 1007. (a) The Secretary, the Secretary of Defense, and the Secretary of Energy shall initiate and carry out a study of the mission, facilities and administration of the Naval Arctic Research Laboratory (NARL), at Point Barrow, Alaska. The study shall review the historical responsibilities carried out at NARL and their contribution to applied and basic Arctic research. The study shall specifically address and the Secretary shall make recommendations on the need for redirecting the United States Arctic research policy and the role of the NARL facilities in developing and implementing that policy. 16 USC 3147.

(b) The Secretaries shall assess the future use of NARL in— Naval Arctic Research Laboratory, assessment.

(1) developing relevant scientific information on the Arctic environment and utilizing applied research to (A) deal with the unique problems the Arctic presents in providing public services; (B) minimize the impact of resource development on the environ-

ment and the culture of the Native people; and (C) promote international cooperation among the Nations which share responsibility for the Arctic environment;

(2) assessing the impact of oil and gas exploration, development, and transportation on the Arctic environment, including impact on fish, marine and land mammals, and migratory waterfowl;

(3) developing advanced design technologies, operational practices, and transportation systems to improve the environmental safety and efficiency of oil and gas exploration and production in the Arctic, including offshore activities;

(4) enlarging the body of knowledge on Arctic ice conditions and developing practical and efficient means of dealing with potential oil spills and other hazards associated with resource development in Alaska's Arctic; and

(5) developing a comprehensive Arctic policy for the Federal Government that will accommodate the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment and the needs of its Native residents.

(c) After completion of the study, the Secretaries shall make recommendations on—

(1) changes in the mission and management of NARL necessary to accomplish the research and policy goals addressed in the study;

(2) the appropriate Federal agency or agencies that should have primary responsibility for management of NARL;

(3) changes in the organizational structure of NARL that would allow greater involvement by State and private organizations in the use, management and/or funding of NARL; and

(4) the appropriate level of Federal funding for scientific and technological research on the Arctic environment and its uses.

Consultation.

(d) In the course of the study, the Secretaries shall consult with representatives of the Department of Navy, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Smithsonian Institution, the State of Alaska, local governments, representatives of public and private institutions conducting Arctic research, and Native Village and Regional Corporations in the areas now affected by the activities of NARL. The Secretaries shall provide an opportunity for public review and comment on the draft report and proposed recommendations prior to final approval, and shall include any recommendations of the local community in the final study.

Public review and comment.

Study submitted to Congress.

(e) The Secretaries shall submit the study and their recommendations to the Congress no later than one year after the date of enactment of this Act.

(f) Pending submission of the study to the Congress, the President is directed to continue the operation of NARL at the level of funding provided for in fiscal year 1979.

OIL AND GAS LEASING PROGRAM FOR NON-NORTH SLOPE FEDERAL LANDS

16 USC 3148.
30 USC 181 note.

SEC. 1008. (a) The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, as amended, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1001 of this Act, other than lands included in the National Petroleum Reserve—Alaska. Such program shall not be

undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

Study

(b)(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

Permits.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

Consultation.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which land should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

Report to Congress.

(4) The Secretary shall report to the Congress by October 1, 1981, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands.

(c) At such time as the studies requested in subsection (b)(4) are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas (hereinafter referred to as "favorable petroleum geological provinces"). In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.

30 USC 181 note.

(d) Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe. Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.

(e) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive

leasing in the area and shall determine the favorable petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.

Exploration plan.

(f) Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

Operation suspension and cancellation.

(i) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

OIL AND GAS LEASE APPLICATIONS

16 USC 3149.

SEC. 1009. (a) Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

30 USC 181 note.

(b) Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

42 USC 4332.

ALASKA MINERAL RESOURCE ASSESSMENT PROGRAM

16 USC 3150.

SEC. 1010. (a) MINERAL ASSESSMENTS.—The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral

potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. For purposes of this Act, core and test drilling means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells. To the maximum extent practicable, the Secretary shall consult and exchange information with the State of Alaska regarding the responsibilities of the Secretary under this section and similar programs undertaken by the State. In order to carry out mineral assessments authorized under this or any other law, including but not limited to the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1001 of this Act.

16 USC 1131 note

Consultation.

Contracts.

(b) REGULATIONS.—Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTIAL TRANSMITTAL

SEC. 1011. On or before October 1, 1982, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Surveys, Bureau of Mines, and any other Federal agency.

Mineral information, transmittal to Congress.
16 USC 3151.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

FINDINGS

SEC. 1101. Congress finds that—

16 USC 3161.

(a) Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly,

continuous decisionmaking process involving the State and Federal Governments and the public;

(b) the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent; and

(c) to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process, a single comprehensive statutory authority for the approval or disapproval of applications for such systems must be provided in this Act.

DEFINITIONS

16 USC 3162.

Sec. 1102. For purposes of this title—

(1) The term "applicable law" means any law of general applicability (other than this title) under which any Federal department or agency has jurisdiction to grant any authorization (including but not limited to, any right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part, be established or operated.

(2) The term "applicant" means any public or private person, including, but not limited to, any Federal department or agency.

(3) The term "Federal agency" means any Federal department or agency that has any function or duty under applicable law.

(4)(A) The term "transportation or utility system" means any type of system described in subparagraph (B) if any portion of the route of the system will be within any conservation system unit, national recreation area, or national conservation area in the State (and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area).

(B) The types of systems to which subparagraph (A) applies are as follows:

(i) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.

(ii) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.

(iii) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(iv) Systems for the transmission and distribution of electric energy.

(v) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.

(vi) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(vii) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

Any system described in this subparagraph includes such related structures and facilities (both temporary and permanent) along the route of the system as may be minimally necessary for the construction, operation, and maintenance of the system. Such related structures and facilities shall be described in the application required by section 1104, and shall be approved or disapproved in accordance with the procedures set forth in this title.

EFFECT OF TITLE

SEC. 1103. Except as specifically provided for in this title, applicable law shall apply with respect to the authorization and administration of transportation or utility systems. 16 USC 3163.

PROCEDURAL REQUIREMENTS

SEC. 1104. (a) IN GENERAL.—Notwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are complied with. 16 USC 3164.

(b)(1) CONSOLIDATED APPLICATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary, the Secretary of Agriculture, and the Secretary of Transportation, in consultation with the heads of other appropriate Federal agencies, shall jointly prescribe and publish a consolidated application form to be used for applying for the approval of each type of transportation or utility system. Each such application form shall be designed to elicit such information as may be necessary to meet the requirements of this title and the applicable law with respect to the type of system concerned.

(2) For purposes of this section, the heads of all appropriate Federal agencies, including the Secretary of Transportation, shall share decisionmaking responsibility in the case of any transportation or utility system described in section 1102(4)(B) (ii), (iii), or (vii); but with respect to any such system for which he does not have programmatic responsibility, the Secretary of Transportation shall provide to the other Federal agencies concerned such planning and other assistance as may be appropriate.

(c) FILING.—Each applicant for the approval of any transportation or utility system shall file on the same day an application with each appropriate Federal agency. The applicant shall utilize the consolidated form prescribed under subsection (b) for the type of transportation or utility system concerned.

(d) AGENCY NOTICE.—(1) Within sixty days after the receipt of an application filed pursuant to subsection (c), the head of each Federal agency with whom the application was filed shall inform the applicant in writing that, on its face—

(A) the application appears to contain the information required by this title and applicable law insofar as that agency is concerned; or

(B) the application does not contain such information.

(2) Any notice provided under paragraph (1)(B) shall specify what additional information the applicant must provide. If the applicant provides additional information, the head of the Federal agency must inform the applicant in writing, within thirty days after receipt of such information, whether the information is sufficient.

(e) ENVIRONMENTAL IMPACT STATEMENT.—The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection (c). The final environmental impact statement shall be com- 42 USC 4321 note.

Publication in Federal Register.

43 USC 1734.

pleted within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to each environmental impact statement under this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in such section 304. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.

(f) OTHER VIEWS.—During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e), the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(g) AGENCY DECISION.—(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.

(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to—

(A) the need for, and economic feasibility of, the transportation or utility system;

(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(C) the feasibility and impacts of including different transportation or utility systems in the same area;

(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;

(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;

(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(G) measures which should be instituted to avoid or minimize negative impacts; and

(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.

STANDARDS FOR GRANTING CERTAIN AUTHORIZATIONS

SEC. 1105. In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agency concerned shall, within four months after the date of filing of any final Environmental Impact Statement, make recommendations, for purposes of section 1106(b), to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that— 16 USC 3165.

(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system.

AGENCY, PRESIDENTIAL, AND CONGRESSIONAL ACTIONS

SEC. 1106. (a)(1) AGENCY ACTION IN CASES OTHER THAN THOSE INVOLVING SECTION 1105 OR WILDERNESS AREAS.—In the case of any application for the approval of any transportation or utility system to which section 1105 does not apply or that does not occupy, use, or traverse any area within the National Wilderness Preservation System, if, in compliance with section 1104— 16 USC 3166.

(A) each Federal agency concerned decides to approve such authorization within its jurisdiction with respect to that system, then the system shall be deemed to be approved and each such agency shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system; or

(B) one or more Federal agencies decide to disapprove any authorization within its jurisdiction with respect, to that system, then the system shall be deemed to be disapproved and the applicant for the system may appeal the disapproval to the President.

(2) If an applicant appeals under paragraph (1)(B), the President, within four months after receiving the appeal, shall decide whether to approve or deny the application. The President shall approve the application if he finds, after consideration of the factors set forth in section 1104(g)(2), that such approval would be in the public interest and that (1) such system would be compatible with the purposes for which the unit was established; and (2) there is no economically feasible and prudent alternative route for the system. In making a decision, the President shall consider any environmental impact statement prepared pursuant to section 1104(e), comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations, if any, of each Federal agency that rendered a decision with respect to the application. The President's decision to approve or deny the application shall be published in the Federal Register, together with a statement of the reasons for his determination. Appeals. Presidential review. Publication in Federal Register.

(3) If the President approves an application under paragraph (2), each Federal agency concerned shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system.

Judicial review.

(4) If the President denies an application under paragraph (2), the applicant shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

Presidential notification.

(b) AGENCY ACTION IN CASES INVOLVING SECTION 1105 OR WILDERNESS AREAS.—(1) In the case of any application for the approval of a transportation or utility system to which section 1105 applies or that proposes to occupy, use, or traverse any area within the National Wilderness Preservation System, each Federal agency concerned shall promptly submit to the President notification whether the agency tentatively approved or disapproved each authorization within its jurisdiction that applies with respect to the system. Such notification shall be accompanied by a statement of the reasons and findings supporting the agency position.

Presidential determination and recommendation to Congress.

(2) Within four months after receiving all notification referred to in paragraph (1) and after considering such notifications, any environmental impact statement prepared pursuant to section 1104(e), and the comments of the public and Federal agencies received during the preparation of such statement, the President shall decide whether or not the application for the system concerned should be approved. If the President denies an application the applicant shall be deemed to have exhausted his administrative remedies, and may file suit in any appropriate Federal court to challenge such decision. If the President approves the application, he shall submit to Congress his recommendation for approval of the transportation or utility system covered, whereupon the Congress shall consider the application as provided in subsection (c). The President shall include with his recommendation to Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;

(D) a statement of the conditions and stipulations which would govern the use of the system if approved by the Congress.

(c) CONGRESSIONAL APPROVAL.—(1) No application for any transportation or utility system with respect to which the President makes a recommendation for approval under subsection (b) shall be approved unless the Senate and House of Representatives approve a resolution described in paragraph (4) within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(2) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(3) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions

described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(4) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for under title XI of the Alaska National Interest Lands Conservation Act submitted by the President to the Congress on , 19."; the first blank space therein to be filled in with the appropriate transportation or utility system and the second blank therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate. "Resolution."

(5) Except as otherwise provided in this subsection, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution. 15 USC 719f.

(6) After an application for a transportation or utility system has been approved under subsection 1106(a), the appropriate Federal agencies shall issue appropriate authorizations in accordance with applicable law. In any case in which an application for a transportation or utility system has been approved pursuant to section 1106(b), the appropriate Federal agencies shall issue appropriate authorizations in accordance with title V of the Federal Lands Policy Management Act or other applicable law. After issuance pursuant to this subsection, the appropriate land managing agency shall administer the right-of-way in accordance with relevant management authorities of the land managing agency and title V of the Federal Lands Policy Management Act. 43 USC 1761.

RIGHTS-OF-WAY TERMS AND CONDITIONS

SEC. 1107. (a) TERMS AND CONDITIONS.—The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title, terms and conditions which shall include, but not be limited to— 16 USC 3167.

(1) requirements to insure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit, national recreation area, or national conservation area was established or is managed;

(2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land;

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent—

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) WILD AND SCENIC RIVERS SYSTEM.—Any transportation or utility system approved pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

30 USC 185. (c) PIPELINE RIGHTS-OF-WAYS.—In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

EXPEDITED JUDICIAL REVIEW

16 USC 3168. SEC. 1108. (a) It is the intent of Congress that any judicial review of any administrative actions, including compliance with the National

42 USC 4321 note. Environmental Policy Act of 1969, pursuant to this title shall be expedited to the maximum extent possible.

(b) Any proceeding before a Federal court in which an administrative action, including compliance with the National Environmental Policy Act of 1969, pursuant to this title is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.

VALID EXISTING RIGHTS

16 USC 3169. SEC. 1109. Nothing in this title shall be construed to adversely affect any valid existing right of access.

SPECIAL ACCESS AND ACCESS TO INHOLDINGS

16 USC 3170. SEC. 1110. (a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation

areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands. 16 USC 3171.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, 16 USC 3172.

impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

STIKINE RIVER REGION

Consultation with Canadian Government and report to Congress.
16 USC 3173.

SEC. 1113. Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

TITLE XII—FEDERAL-STATE COOPERATION

ALASKA LAND USE COUNCIL

16 USC 3181.

SEC. 1201. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

Presidential appointment.

(b) COCHAIRMEN.—The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Cochairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and

(3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECISION NOT TO PARTICIPATE.—If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Cochairman, the agencies referred to in subsection (c)(1) and the representatives of the Alaska Native Regional Corporations referred to in subsection (c)(3). The Council, so composed, shall carry out the administrative functions required by this title and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) COMPENSATION AND EXPENSES.—

(1) The Federal Cochairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V, United States Code. 5 USC 5315.

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees, or members of the Council referred to in subsection (c)(3), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Cochairman and other State members of the Council have been compensated in accordance with applicable State law.

(f) ADMINISTRATIVE AUTHORITY.—

(1) The Cochairmen, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act. Federal costs and expenses.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Cochairman during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

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(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) MEETINGS; AUTHORITIES; REPORTS.—The Council shall meet at the call of the Cochairmen, but not less than four times each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Cochairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

Publication in Federal Register.

(h) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Cochairman shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

(i) FUNCTIONS OF THE COUNCIL.—

(1) The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(2) It shall be the function of the Council—

(A) to make recommendations to appropriate officials of the United States and the State of Alaska with respect to—

(i) proposed regulations promulgated by the United States to carry out its responsibilities under this Act;

(ii) management plans and studies required by this Act including, but not limited to, plans and studies for conservation system units, wild and scenic rivers, and wilderness areas;

(iii) proposed regulations promulgated by the State of Alaska to carry out its responsibilities under this Act and other State and Federal laws;

(B) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(C) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(D) to make recommendations to appropriate officials of the governments of the United States and the State of

Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(E) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native Corporations upon their request;

(F) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(G) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(H) to make recommendations to appropriate officials of the governments of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(j) COOPERATIVE PLANNING.—

(1) The Council shall recommend cooperative planning zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members including, but not limited to, such areas as the Northwest Arctic, the North Slope, and Bristol Bay. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones. Cooperative agreements.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(3) Cooperative agreements established pursuant to this section shall include a plan for public participation consistent with the guidelines established by the Council pursuant to subsection (m).

(k) NONACCEPTANCE OF COUNCIL RECOMMENDATIONS.—If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsection (i) or (j), such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

(l) TERMINATION.—Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Cochairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommenda- Report to Congress.

tions for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(m) PUBLIC PARTICIPATION.—The Council shall establish and implement a public participation program to assist the Council to carry out its responsibilities and functions under this section. Such program shall include, but is not limited to—

(1) A committee of land-use advisors appointed by the Cochairmen made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Native Corporations, and other public and private organizations. To the maximum extent practicable, the membership of the committee shall provide a balanced mixture of national, State, and local perspective and expertise on land and resource use issues; and

(2) A system for (A) the identification of persons and communities, in rural and urban Alaska, who or which may be directly or significantly affected by studies conducted, or advice and recommendations given by the Council pursuant to this section, and (B) guidelines for, and implementation of, a system for effective public participation by such persons or communities in the development of such studies, advice and recommendations by the Council.

FEDERAL COORDINATION COMMITTEE

Establishment.
16 USC 3182.

SEC. 1202. There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

Publication in Federal Register.

BRISTOL BAY COOPERATIVE REGION

16 USC 3183.

SEC. 1203. (a) DEFINITIONS.—For purposes of this section—

(1) The term "Governor" means the Governor of the State of Alaska.

(2) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1979.

Cooperative management plan.

(b) PURPOSE.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to provide for the rational and orderly development of economic resources within the region in an environmentally sound manner;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify any further lands within the region which are appropriate for selections by the State under section 6 of the Alaska Statehood Act and this Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) FEDERAL-STATE COOPERATION IN PREPARATION OF PLANS.—(1) If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(A) the identification of the significant resources of the region;

(B) the identification of present and potential uses of land within the region;

(C) the identification of areas within the region according to their significant resources and the present or potential uses within each such area;

(D) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of other resources within the region; and

(E) the specification of the uses which may be permitted in each area identified under paragraph (C) and the manner in which these uses shall be regulated by the Secretary or the State, as appropriate, if such plan is approved.

(2) The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary or the Governor:

(i) may modify without prior approval of both parties to the plan; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) ACTION BY SECRETARY IF STATE DOES NOT PARTICIPATE IN PLAN.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) (and containing a specification of those elements in the plan which the Secretary may modify without prior approval of Congress), and submit copies of such plan to the Congress, as provided in subsection (e)(2), within three years after the date of the enactment of this Act.

Cooperative management plan, submittal to Congress.

(e) TAKING EFFECT OF PLAN.—

Proposed legislation, submittal to Congress and State Legislature.

(1) If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State.

(2) If the plan prepared pursuant to this section is agreed to by the Secretary and the Governor includes any recommendations regarding (i) the exchange of State lands, (ii) the management of Federal lands within any conservation system unit, or (iii) any other actions which require the approval of either the Congress or the Alaska State Legislature, then the Secretary and the Governor shall submit to the Congress and the State Legislature as appropriate, their proposals for legislation necessary to carry out the recommendations contained in the plan.

(f) TRANSITIONAL PROVISIONS.—On the date of the enactment of this Act, and for a period of three years thereafter, all Federal land within the region (except that land conveyed by title IX of this Act to the State of Alaska and Federal lands located within the boundaries of conservation system units) shall be withdrawn from all forms of appropriation under the public land laws, including selections by the State, and from location and entry under the mining laws and from leasing under the Mineral Leasing Act, and shall be managed by the Bureau of Land Management under its existing statutory authority and consistent with provisions of this section.

TITLE XIII—ADMINISTRATIVE PROVISIONS

MANAGEMENT PLANS

Transmittal to congressional committees. 16 USC 3191.

SEC. 1301. (a) Within five years from the date of enactment of this Act, the Secretary shall develop and transmit to the appropriate Committees of the Congress a conservation and management plan for each of the units of the National Park System established or to which additions are made by this Act.

(b) NATIONAL PARK SERVICE PLAN REQUIREMENTS.—Each plan for a unit established, redesignated, or expanded by title II shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned National Park System unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of any areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities, if any.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(c) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for Alaska Natives residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(d) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will be significantly affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

LAND ACQUISITION AUTHORITY

16 USC 3192.

SEC. 1302. (a) GENERAL AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the Secretary is authorized, consistent with other applicable law in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit other than National Forest Wilderness.

(b) RESTRICTIONS.—Lands located within the boundaries of a conservation system unit which are owned by—

(A) the State or a political subdivision of the State;

(B) a Native Corporation or Native Group which has Natives as a majority of its stockholders;

(C) the actual occupant of a tract, title to the surface estate of which was on, before, or after the date of enactment of this Act conveyed to such occupant pursuant to subsections 14(c)(1) and 14(h)(5) of the Alaska Native Claims Settlement Act, unless the Secretary determines that the tract is no longer occupied for the purpose described in subsections 14(c)(1) or 14(h)(5) for which the tract was conveyed and that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located; or

Post, pp. 2493, 2494.

(D) a spouse or lineal descendant of the actual occupant of a tract described in subparagraph (C), unless the Secretary determines that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located—

may not be acquired by the Secretary without the consent of the owner.

(c) EXCHANGES.—Lands located within the boundaries of a conservation system unit (other than National Forest Wilderness) which are owned by persons or entities other than those described in subsection (b) of this section shall not be acquired by the Secretary without the consent of the owner unless prior to final judgment on the value of the acquired land, the owner, after being offered appropriate land of similar characteristics and like value (if such land is available from public lands located outside the boundaries of any conservation system unit), chooses not to accept the exchange. In identifying public lands for exchange pursuant to this subsection, the Secretary shall consult with the Alaska Land Use Council.

(d) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(e) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years, or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his

determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

"Improved property."

(f) DEFINITION.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1980 (hereinafter referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1980, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1980, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(g) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(h) EXCHANGE AUTHORITY.—Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

48 USC note prec.

(i)(1) The Secretary is authorized to acquire by donation or exchange, lands (A) which are contiguous to any conservation system unit established or expanded by this Act, and (B) which are owned or validly selected by the State of Alaska.

(2) Any such lands so acquired shall become a part of such conservation system unit.

USE OF CABINS AND OTHER SITES OF OCCUPANCY ON CONSERVATION SYSTEM UNITS

16 USC 3198.

SEC. 1308. (a) IMPROVED PROPERTY ON NATIONAL PARK SYSTEM LANDS.—

(1) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: *Provided*, That the claimant of the structure by application:

(A) Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.

(2) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: *Provided, however*, That the claimant, by application:

(A) Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

(3) Cabins or other structures not under permit as specified herein shall be used only for official government business: *Provided, however*, That during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.

(4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) IMPROVED PROPERTY ON OTHER UNITS OR AREAS ESTABLISHED OR EXPANDED BY THIS ACT.—The following conditions shall apply regarding the construction, use and occupancy of cabins and related

structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

New cabins, construction.

(1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

Existing cabins and structures, special use permits.

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(3) No special use permit shall be issued under subsections (b)(1) or (2) unless the permit applicant:

(A) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon nonrenewal or revocation of the permit; and

(D) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

New structures, Federal ownership.

(4) The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: *Provided, however,* That during emergencies involving the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) PERMITS TO BE RENEWED FOR LIFE OF CLAIMANT AND IMMEDIATE FAMILY.—

(1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.

(2) Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided for in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) EXISTING CABIN LEASES OR PERMITS.—Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on the date of enactment of this Act for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

Designations and acquisitions. 16 USC 3194.

SEC. 1304. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Monument, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Park, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

Submittal to congressional committees. Publication in Federal Register.

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

COOPERATIVE INFORMATION/EDUCATION CENTERS

16 USC 3196.

SEC. 1305. The Secretary is authorized in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land at a site adjacent to the Alaska Highway, and to investigate and plan for similar centers in Anchorage and Fairbanks, Alaska. For the purposes of this investigation, the Secretary shall seek participation in the program planning and/or operation of such

centers from appropriate agencies of the State of Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives. The Secretary of Agriculture is authorized to investigate and plan for, in a similar manner, an information and education center for visitors to Alaska in either Juneau, Ketchikan, or Sitka, Alaska. No information center shall be developed pursuant to investigations and plans conducted under authority of this section unless and until such development is specifically authorized by Congress.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1306. (a) ESTABLISHMENT.—In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities— 16 USC 3196.

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land), office space, housing, and other necessary facilities which the Secretary determines to be suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1307. (a) CONTINUATION OF EXISTING VISITOR SERVICES.— Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged 16 USC 3197.

in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents; and

(3) shall, consistent with the provisions of this section, offer to Cook Inlet Region, Incorporated, in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new revenue producing visitor services within the Kenai National Moose Range or that portion of the Lake Clark National Park and Preserve within the boundaries of the Cook Inlet Region that right to remain open for a period of ninety days as agreed to in paragraph VIII of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204).

43 USC 1611 note.

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.

"Visitor service."

LOCAL HIRE

16 USC 3198.

SEC. 1308. (a) PROGRAM.—After consultation with the Office of Personnel Management, the Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

Submittal to Congress.

(b) REPORTS.—The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together

with any recommendations for legislation in furtherance of the purposes of this section.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. 1309. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.". 16 USC 410bb. 16 USC 410bb.

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1310. (a) EXISTING FACILITIES.—Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act. 16 USC 3199.

(b) NEW FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

SCENIC HIGHWAY STUDY

SEC. 1311. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all 16 USC 3200.

forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States. Nothing in this section shall be construed to preclude minor road realignment, minor road improvement, or the extraction of gravel for such purposes from lands withdrawn or affected by the study mandated herein.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS-15.

(c) COOPERATION NOTICE HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. Such report shall include the views and recommendations of all members of the study team. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

Presidential recommendations to Congress.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

ADMINISTRATION OF THE WHITE MOUNTAINS NATIONAL RECREATION AREA

Sec. 1312. (a) The White Mountains National Recreation Area established by this Act shall be administered by the Secretary in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such area. Except as otherwise provided in this Act, the Secretary shall administer the recreation area in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation area, the Secretary may utilize such statutory authorities available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. 16 USC 460mm–4.

(b) The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from State selection under the Alaska Statehood Act or other law, and from location, entry, and patent under the United States mining laws. The Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas. Land withdrawal and nonleasable mineral removal. 43 USC note prec. 21.

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

ADMINISTRATION OF NATIONAL PRESERVES

Sec. 1313. A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. Consistent with the provisions of section 816, within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having responsibility over hunting, fishing, and trapping activities. 16 USC 3201. *Ante*, p. 2430.

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TAKING OF FISH AND WILDLIFE

16 USC 3202.

SEC. 1314. (a) Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution.

Ante, p. 2422.

(b) Except as specifically provided otherwise by this Act, nothing in this Act is intended to enlarge or diminish the responsibility and authority of the Secretary over the management of the public lands.

(c) The taking of fish and wildlife in all conservation system units, and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park system monuments in the State shall be closed to the taking of fish and wildlife, except that—

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

(2) fishing shall be permitted by the Secretary in accordance with the provisions of this Act and other applicable State and Federal law.

WILDERNESS MANAGEMENT

16 USC 3203.

SEC. 1315. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

16 USC 1131 note.

Fishery research and management activities.

(b) AQUACULTURE.—In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) EXISTING CABINS.—Previously existing public use cabins within wilderness designated by this Act may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(d) NEW CABINS.—Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter. Notification of congressional committees.

(e) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber or relevant lands within such units.

(f) BEACH LOG SALVAGE.—Within National Forest wilderness and national forest monuments designated by this Act, the Secretary of Agriculture may permit or otherwise regulate the recovery and salvage of logs from coastlines.

ALLOWED USES

SEC. 1316. (a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee. Public lands. 16 USC 3204.

(b) Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.

GENERAL WILDERNESS REVIEW PROVISION

SEC. 1317. (a) Within five years from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section Report to President. 16 USC 3205.

16 USC 1132.

3(d) of the Wilderness Act relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President.

Presidential recommendations to Congress.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act.

(c) Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

STATEWIDE CULTURAL ASSISTANCE PROGRAM

16 USC 3206.

SEC. 1318. In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native Corporation or Native Group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

16 USC 461.

EFFECT ON EXISTING RIGHTS

16 USC 3207.

SEC. 1319. Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on lands within the State of Alaska;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control; or

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1320. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

43 USC 1784.
43 USC 1782.
Recommendations to Congress.
43 USC 1711, 1712.

AUTHORIZATION FOR APPROPRIATION

SEC. 1321. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

16 USC 3208.

EFFECT ON PRIOR WITHDRAWALS

SEC. 1322. (a) The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79-17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to the enactment of this Act. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976, or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

16 USC 3209.

43 USC 1701 note.

(b) This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national recreation areas, and forest additions, established, designated, or expanded by this Act.

48 USC note prec. 21.

ACCESS

Nonfederally owned lands. 16 USC 3210.

SEC. 1323. (a) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided*, That such owner comply with rules and regulations applicable to access across public lands.

YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

16 USC 3211.

SEC. 1324. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

16 USC 3212.

SEC. 1325. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

FUTURE EXECUTIVE ACTIONS

16 USC 3213.

SEC. 1326. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

Publication in Federal Register; notification of Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

ALASKA GAS PIPELINE

SEC. 1327. Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94-586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system. 16 USC 3214. 15 USC 719 note.

PUBLIC LAND ENTRIES IN ALASKA

SEC. 1328. (a)(1) Subject to valid existing rights, all applications made pursuant to the Acts of June 1, 1938 (52 Stat. 609), May 3, 1927 (44 Stat. 1364), May 14, 1898 (30 Stat. 413), and March 3, 1891 (26 Stat. 1097), which were filed with the Department of the Interior within the time provided by applicable law, and which describe land in Alaska that was available for entry under the aforementioned statutes when such entry occurred, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3) or (4) of this subsection, or where the land description of the entry must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. Application approval. 16 USC 3215.

(2) Where an application describes land within the boundaries of a unit of the National Park System or a unit of the National Wildlife Refuge System, or a unit of the National Wilderness Preservation System in the Tongass or Chugach National Forests established before the effective date of this Act or by this Act, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an application describes land which has been patented or deeded to the State of Alaska or which on or before the date of entry was validly selected by, tentatively approved, patented, deeded or confirmed to the State of Alaska pursuant to applicable law and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection and subsection (c) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof, the Alaska Native Claims Settlement Act, and other applicable law. Adjudication. 43 USC 1310. 43 USC 1601 note.

(3) Paragraph (1) of this subsection and subsection (c) shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof, if on or before the one hundred and eightieth day following the effective date of the Act—

(A) a Native Corporation files a protest with the Secretary of the Interior (the Secretary) stating that the applicant is not entitled to the land described in the application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) the State of Alaska files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for

transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that said land is the situs of improvements claimed by the person or entity; or

(D) the State of Alaska files a protest with the Secretary respecting an entry which was made prior to a valid selection tentative approval, patent, deed, or confirmation to the State of Alaska pursuant to applicable law; or

(E) regarding public land entries within units of the National Wildlife Refuge System established or expanded in this Act, any such entry not properly made under applicable law, or not the subject of an application filed within the time required by applicable law, or not properly maintained thereafter under applicable law shall be adjudicated pursuant to the Act under which the entry was made.

(4) Paragraph (1) of this subsection and subsection (c) shall not apply to any application which was knowingly and voluntarily relinquished by the applicant.

Application land descriptions, amendments.

(b) An applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior of the intended correction of the entry's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(3) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided, further*, That the Secretary may require that all applications designating land in a specific area be amended, if at all, prior to a date certain which date shall be calculated to allow for orderly adoption of a plan or survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*, That no application may be amended for location following adoption of a final plan of survey which includes the location of the entry as described in the application or its location as desired by amendment.

Powersites and power-projects.

(c) Where the land described in application (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Acts referred to in section 1322(a)(1) hereof, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however*, That if the described land is included as part of a project licensed under part I of the Federal Power Act of

June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the application shall be adjudicated pursuant to the appropriate Act: *Provided further*, That where the applicant commenced occupancy of the land after its withdrawal or classification for powersite purposes, the entry shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further*, That any right of reentry reserved in a patent pursuant to this section shall expire twenty years after the effective date of this Act if at that time the land involved is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended or other Act of Congress. 16 USC 791a. 16 USC 818. 16 USC 791a.

(d) Prior to issuing a patent for an entry subject to this section, the Secretary shall identify and adjudicate any record entry or application for title to land described in the application, other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the application, and shall determine whether such entry or application represents a valid existing right to which the application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, as affecting National Forest lands. Existing rights, identification and adjudication. 43 USC 1601 note. 48 USC note prec. 21. 34 Stat. 197.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

STOCK ALIENATION

SEC. 1401. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows: 43 USC 1606.

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions— Stock issuance, restrictions.

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary— Regional and native corporation articles of incorporation.

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions speci-

filed in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native Corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

43 USC 1607.

(b) Section 8(c) of such Act is amended to read as follows:

"(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations Urban Corporations and Native Groups; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

43 USC 1606.

(c) At the end of section 1606(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

"Native Corporation."
43 USC 1602.

(d) Section 3 of the Alaska Native Claims Settlement Act is amended by the addition of a new subsection as follows:

"(m) 'Native Corporation' means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.".

SELECTION REQUIREMENTS

SEC. 1402. Subsection (a)(2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(2)), is amended by adding to the end of that subsection the following: "*Provided*, That the Secretary in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.".

RETAINED MINERAL ESTATE

SEC. 1403. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected. 43 USC 1610.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). 43 USC 1611, 1613. 43 USC 1616.

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

VESTING DATE FOR RECONVEYANCES

SEC. 1404. (a) Section 14(c)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation)" after "title to the surface estate in the tract occupied". 43 USC 1613.

(b) Section 14(c)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such Act is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure

safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

43 USC 1613.

SEC. 1405. Section 14(c)(3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided, however*, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;".

CONVEYANCE OF PARTIAL ESTATES

Cemetery sites and historical places.

SEC. 1406. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.".

(b) Sections 14(h)(2) and 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613 (h)(2) and (h)(5)) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

Reserved minerals.

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(h)(6)) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended.".

43 USC 270-11.

43 USC 1611 note.

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) is amended by adding at the end thereof the following new paragraphs:

Subsurface and retained mineral estates.

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary, or, as to Cook Inlet Region, Incorporated, from those areas designated for in lieu selection in paragraph I.B.(2) of the document identified in section 12(b) of Public Law 94-204. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except

43 USC 1611 note.

where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary. 43 USC 1616.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary. Withdrawals. 43 USC 1621.

"(11) For purposes set forth in subsections (h) (1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act. Wildlife refuge subsurface estate. 43 USC 1613 note. 43 USC 1613. 43 USC 1611, 1613.

SHAREHOLDER HOMESITES

SEC. 1407. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows: 43 USC 1620.

"(j) A real property interest distributed prior to December 18, 1991, by a Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

BASIS IN THE LAND

SEC. 1408. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows: Property value.

"(c) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or 43 USC 1621.

loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of the Internal Revenue Code of 1954, as amended: *Provided, however*, That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than the fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of such Code. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent).".

26 USC 1016.

FIRE PROTECTION

SEC. 1409. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h)(3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland".

43 USC 1621.

INTERIM CONVEYANCES AND UNDERSELECTIONS

SEC. 1410. Section 22(j) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(j)(1) Where lands to be conveyed to a Native, Native Corporation, or Native group pursuant to this Act as amended and supplemented have not been surveyed, the same may be conveyed by the issuance of an 'interim conveyance' to the party entitled to the lands. Subject to valid existing rights and such conditions and reservations authorized by law as are imposed, the force and effect of such an interim conveyance shall be to convey to and vest in the recipient exactly the same right, title, and interest in and to the lands as the recipient would have received had he been issued a patent by the United States. Upon survey of lands covered by an interim conveyance a patent thereto shall be issued to the recipient. The boundaries of the lands as defined and conveyed by the interim conveyance shall not be altered but may then be redescribed, if need be, in reference to the plat of survey. The Secretary shall make appropriate adjustments to insure that the recipient receives his full entitlement. Where the term 'patent,' or a derivative thereof, is used in this Act, unless the context precludes such construction, it shall be deemed to include 'interim conveyance,' and the conveyances of land to Natives and Native Corporations provided for this Act shall be as fully effectuated by the issuance of interim conveyances as by the issuance of patents.

"(2) Where lands selected and conveyed, or to be conveyed to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly

43 USC 1611, 1612, 1615.

withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), 11(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.". 43 USC 1610, 1615. 43 USC 1616.

ESCROW ACCOUNT

SEC. 1411. (a) Subsection (a) of section 2 of Public Law 94-204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act. Payments. 43 USC 1613 note.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.

"(5) Lands withdrawn under this subsection include all Federal lands identified under appendices A, B-1 and B-2 of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204) for Cook Inlet Region, Incorporated, and are deemed withdrawn as of the date established in subsection (a) of section 2 of the Act of January 2, 1976.".

43 USC 1611 note.

(b) Section 2 of Public Law 94-204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

43 USC 1613 note.

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

LIMITATIONS

43 USC 1639. 43 USC 1601 note.

SEC. 1412. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PART B—OTHER RELATED PROVISIONS

SUPPLEMENTAL APPROPRIATION FOR NATIVE GROUPS

Grants. 43 USC 1618 note. 43 USC 1613.

SEC. 1413. The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act and finally certified as a Native Group, an amount not more than $100,000 or less than $50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act.

FISCAL YEAR ADJUSTMENT ACT

Funds, disposition. 43 USC 1605 note.

SEC. 1414. (a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act, shall, for the purposes of section 5 of Public Law 94-204 only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act notwithstanding any other provision of law.

43 USC 1605.

(b) For the fiscal year in which this Act is enacted, the money appropriated shall be deposited within 10 days of enactment, unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: *Provided*, That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

43 USC 1605.

(c) Notwithstanding section 32 of the Fiscal Year Adjustment Act or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051), and deposited in the Alaska Native Fund on or

after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act. 43 USC 1605

RELINQUISHMENT OF SELECTIONS PARTLY WITHIN CONSERVATION UNITS

SEC. 1415. Whenever a valid State or Native selection is partly in and partly out of the boundary of a conservation system unit, notwithstanding any other provision of law to the contrary, the State or any Native Corporation may relinquish its rights in any portion of any validly selected Federal land, including land underneath waters, which lies within the boundary of the conservation system unit. Upon relinquishment, the Federal land (including land underneath waters) so relinquished within the boundary of the conservation system unit shall become, and be administered as, a part of the conservation system unit. The total land entitlement of the State or Native Corporation shall not be affected by such relinquishment. In lieu of the lands and waters relinquished by the State, the State may select pursuant to the Alaska Statehood Act as amended by this Act, an equal acreage of other lands available for such purpose. The Native Corporation may retain an equal acreage from overselection lands on which selection applications were otherwise properly and timely filed. A relinquishment pursuant to this section shall not invalidate an otherwise valid State or Native Corporation land selection outside the boundaries of the conservation system unit, on the grounds that, after such relinquishment, the remaining portion of the land selection no longer meets applicable requirements of size, compactness, or contiguity, or that the portion of the selection retained immediately outside the conservation system unit does not follow section lines along the boundary of the conservation system unit. The validity of the selection outside such boundary shall not be adversely affected by the relinquishment. 43 USC 1640 48 USC note prec. 21

BRISTOL BAY GROUP CORPORATION LANDS

SEC. 1416. (a) Congress finds that the individual Natives enrolled to Port Alsworth are enrolled at-large in the Bristol Bay Native Corporation. The roll prepared by the Secretary shall be determinative of this fact and such enrollment shall be final. Acreage entitlements.

(b) The individual Natives enrolled to Port Alsworth have formed a group corporation which shall hereafter be referred to as Tanalian Incorporated. The benefits bestowed by this section upon these Natives shall accrue to such group corporation, regardless of its name.

(c) If Tanalian Incorporated is certified as a group under the Alaska Native Claims Settlement Act, Tanalian Incorporated shall be entitled to make selections in accordance with subsection (d) hereof. 43 USC 1601 note.

(d)(1) Tanalian Incorporated if certified shall be entitled to make selections of the surface estate of public lands as that term is described in section 3(e) of the Alaska Native Claims Settlement Act from the following described lands, except it may not select any land of Power Site Reserve 485 (the Kontrashibuna Power Site), land acquired by the United States after January 1, 1979, or land subject to a valid existing right, in the amount agreed to by Bristol Native Corporation (not to exceed 320 acres per person or 2,240 acres, whichever is less) and charged against Bristol Bay Native Corpora- 43 USC 1602

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tion's rights to select under section 14(h) as provided for in 43 CFR 2653.1(b):

Seward Meridian

Township 1 north, Range 29 west, sections 3, 4, 5, 8, 9, 10, 16, 17, 18, 19, 20, and 21.

(2) If Tanalian Incorporated is certified as a group, the Secretary shall give written notice within sixty days of such certification to Bristol Bay Native Corporation.

(3) If such notice is given, Bristol Bay Native Corporation shall, within sixty days thereafter, give written notice to the Secretary and Tanalian Incorporated as to the amount of acreage Tanalian Incorporated may select.

(4) Within one hundred and eighty days after receipt of such notice, Tanalian Incorporated may select, pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (d)(1). 43 USC 1613.

(5) Within one hundred and eighty days after Tanalian Incorporated makes selections in accordance with subsection (d)(1) hereof Bristol Bay Native Corporation may select subject to any valid existing right an amount of subsurface estate from public lands as defined in the Alaska Native Claims Settlement Act previously withdrawn under sections 11(a)(1) or 11(a)(3) of the Alaska Native Claims Settlement Act within its boundaries equal to the surface estate entitlement of Tanalian Incorporated. Bristol Bay Native Corporation will forego in lieu subsurface selections in that portion of the Nondalton withdrawal area which falls within the Lake Clark Preserve. Selections made by Bristol Bay Native Corporation shall have priority over any selections made by the State after December 18, 1975. Such subsurface selections shall be in a single contiguous and reasonably compact tract and the exterior boundaries of such selections shall be in conformity with the public lands survey system. 43 USC 1601 note. 43 USC 1610.

(e) If there is any conflict between selections made by Tanalian Incorporated pursuant to this section and valid Cook Inlet Region, Incorporated or Cook Inlet Region Village selections, the selections of Cook Inlet Region, Incorporated or the Cook Inlet Region Village shall prevail.

(f) The Secretary shall convey to Tanalian Incorporated and to Bristol Bay Native Corporation the surface and subsurface estate, respectively, of the acreage selected by the corporation pursuant to this section. Land conveyance.

(g) Nothing contained in this section, or done pursuant to authorizations made by this section, shall alter or affect the acreage entitlements of Cook Inlet Region, Incorporated, or Bristol Bay Native Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act nor the boundaries of Cook Inlet Region, Incorporated or Bristol Bay Native Corporation, respectively. 43 USC 1611.

PRIBILOF ISLANDS ACQUISITION AUTHORITY

SEC. 1417. (a) Congress finds and declares that—

(1) certain cliff areas on Saint Paul Island and Saint George Island of the Pribilof Islands group in the Bering Sea and the entirety of Otter Island, and Walrus Island, are used by numerous species of migratory birds, several of them unique, as rookeries;

(2) these areas are of singularly high value for such birds;

(3) these cliff areas, from the line of mean high tide to and including the bluff and areas inland from them, and the entirety of Otter Island, and Walrus Island, aggregating approximately eight thousand acres, properly ought to be made and be managed as a part or parts of the Alaska Maritime National Wildlife Refuge free of any claims of Native Corporation ownership; and

(4) this can best be accomplished through purchase by the United States.

(b) The Secretary is authorized and directed to acquire the lands described in subsection (a)(3) of this section on the terms of and conditions set forth in the Agreement known as the "Pribilof Terms and Conditions", between Tanadgusix, Incorporated, Tanaq, Incorporated, the Aleut Corporation, and the Department of the Interior, incorporated as an Attachment of the letter of the Director, Fish and Wildlife Service, Department of the Interior, dated August 4, 1980, file reference FWS 1366, addressed to the Aleut, Tanadgusix, and Tanaq Corporations. The "Pribilof Terms and Conditions," as referenced in this subsection, are hereby ratified as to the duties and obligations of the United States and its agencies, Tanadgusix, Incorporated, Tanaq, Incorporated, and the Aleut Corporation: *Provided*, That the "Pribilof Terms and Conditions" may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress. Upon acquisition by the United States, the lands described in such subsection (a)(3) shall be incorporated within, and made a subunit of, the Alaska Maritime National Wildlife Refuge and administered accordingly.

(c) There are hereby authorized to be appropriated for the purposes of this section, out of any money in the Treasury not otherwise appropriated, for the acquisition of such lands, not to exceed $7,500,000, to remain available until expended, and without regard to fiscal year limitation. Appropriation authorization.

(d) The land or money exchanged under this section shall be deemed to be property exchanged within the meaning of section 21(c) of the Alaska Native Claims Settlement Act. 43 USC 1620.

NANA/COOK INLET REGIONAL CORPORATION LANDS

SEC. 1418. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section: 43 USC 1613.

Kateel River Meridian

Township 32 north, range 18 west, sections 3 through 10, 13 through 36, except those lands within the Kelly River drainage;

Township 32 north, range 17 west, sections 29 through 32, except those lands within the Kelly River drainage;

Township 31 north, range 18 west;

Township 31 north, range 17 west, sections 5 through 8, except those lands within the Kelly River drainage, 17 through 20, 29 through 32;

Township 30 north, range 19 west, sections 1 through 18;

Township 30 north, range 18 west, sections 1 through 9; and

Township 30 north, range 17 west, section 6.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, NANA Regional Corporation, Incorporated, may select, pursuant to section 14(h)(8) of the Alaska Native Claims

43 USC 1613.

Settlement Act, from the lands withdrawn pursuant to subsection (a). In addition, on or prior to such date, Cook Inlet Region, Incorporated, if it receives the written consent of NANA Regional Corporation, Incorporated, and of the State of Alaska, may select from such lands, such selections to be credited against the Secretary's obligation under paragraph I(C)(1) of the document entitled, "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as Clarified August 31, 1976", and any such selections conveyed shall be conveyed in partial satisfaction of the entitlement of Cook Inlet Region, Incorporated, under section 12 of Public Law 94-204, as amended.

43 USC 1611 note.

(2) The lands selected by NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary, shall consist of tracts which—

(A) contain not less than eight sections or 5,120 acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a meanderable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

Land conveyance.

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of either NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by either NANA Regional Corporation, Incorporated or Cook Inlet Region, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

43 USC 1616.
Ante, p. 2437.

(f) Nothing in this section shall be construed as granting or denying to any Regional Corporation, including NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, the right to select land pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act outside the areas withdrawn by sections 11 and 16 of such Act.

43 USC 1613.
43 USC 1610, 1615.

DOYON REGIONAL CORPORATION LANDS

SEC. 1419. LAND EXCHANGE.—(a)(1) The Secretary is authorized, on the terms and conditions provided in this section and in section 1420, to accept from Doyon, Limited, a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, a relinquishment of all selections filed by that corporation under sections 12(c) and 14(h)(8) of such Act which—

43 USC 1601 note.
43 USC 1611, 1613.

(A) lie within the watershed of the Charley River, were withdrawn for selection by Doyon pursuant to section 11(a)(3) of such Act and lie within the following townships: 43 USC 1610.

Fairbanks Meridian

Township 2 north, range 23, 24, 25, and 26 east;
Township 3 north, range 23, 24, 25, and 26 east;
Township 4 north, range 24, 25, and 26 east; and
Township 2 south, range 20 east.

(B) lie in the following townships outside, but adjacent to, the Charley River watershed:

Fairbanks Meridian

Township 2 north, range 23 east; and
Township 2 north, range 24 east, sections 19 through 21, 28 through 33, inclusive.

(C) lie within the following townships inside the Kanuti National Wildlife Refuge:

Fairbanks Meridian

Township 15 north, range 20 west, sections 4 through 9, 16 through 18, inclusive;
Township 17 north, range 23 west.

(D) lie within the following townships along the Yukon River:

Kateel River Meridian

Township 19 south, range 3 west. That portion lying west of the mean high water line of the Yukon River;
Township 20 south, range 3 west. All except the Yukon River and Bullfrog Island;
Township 21 south, range 3 west. That portion of sections 7, 8, and 9 lying south of Honeymoon Slough, and sections 16, 17, and 18; and
Township 21 south, range 4 west. Sections 12 and 13 above the mean high water line of the Yukon River, and sections 2, 3, 10, 11, 14, 15, 19 through 23, and 27 through 34 all lying west of the mean high water line of the Yukon River.

(2) Doyon, Limited, shall have ninety days after the date of enactment of this Act to effect the relinquishment of all the land selections described in subsection (a) hereof, and shall not be entitled to any of the benefits of subsections (b), (c), and (d) hereof or of section 1420 of this Act if the relinquishment of all such selections does not occur during that period.

(3) Following the relinquishment by Doyon, Limited, of all the land selections described in subsection (a) hereof, the Secretary shall determine the acreage so relinquished by such measuring techniques, including aerial photography but not ground surveys, upon which he and Doyon may agree.

(b)(1) In exchange for the lands relinquished pursuant to subsection (a) hereof, the Secretary shall convey to Doyon, Limited, pursuant to the provisions of the Alaska Native Claims Settlement Act, subject to valid existing rights and on the terms and conditions hereinafter set forth, such lands as Doyon may select, within one year after the Secretary's acreage determination pursuant to subsection (a)(3) Land conveyance. 43 USC 1601 note.

hereof, on an acre-for-acre basis up to the total acreage so relinquished, from the following described lands:

Fairbanks Meridian

Township 35 north, range 7 west, sections 19 through 36;
Township 34 north, range 7 west, sections 1 through 21, and 28 through 33;
Township 29 north, range 13 west, sections 1 through 3, and 10 through 15;
Township 20 north, range 10 west, within the study area delineated in section 1420;
Township 20 north, range 11 west, within the study area delineated in section 1420;
Township 20 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed;
Township 21 north, range 10 west, within the study area delineated in section 1420;
Township 21 north, range 11 west, within the study area delineated in section 1420 and all the remaining lands in the township which are outside of the Hodzana River watershed;
Township 21 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed;
Township 1 north, range 25 east, sections 13, 14, 15, 21 through 28, and 33 through 36: *Provided*, That Doyon may not receive a land conveyance within any of the following watersheds:

(1) Arctic Creek, a tributary of Flume Creek;
(2) Diamond Fork of the Seventy-mile River; and
(3) Copper Creek, a tributary of the Charley River.

Township 1 south, range 25 east, sections 1, 2, 3, 10 through 14, 23, 24, and 25: *Provided*, That Doyon may not receive a land conveyance within the watershed of Copper Creek, a tributary of the Charley River;
Township 3 south, range 30 east, sections 20 through 29 and 32 through 36;
Township 4 south, range 28 east, sections 10 through 15, 22 through 28, 33 and 36: *Provided*, That Doyon may not receive a land conveyance any closer than one mile to the mean high water line of the North Fork of the Fortymile River, nor any closer than one-half mile to Champion Creek;
Township 4 south, range 29 east, sections 18 through 22, and 25 through 36: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 4 south, range 30 east, sections 1, 2, 11, 12, 13, 24, 25, and 28 through 36: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 4 south, range 31 east, sections 6, 7, 8, 17 through 20, and 29 through 32: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 5 south, range 30 east, sections 1 through 6, 11, and 12: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;

Township 5 south, range 31 east, sections 4 through 9: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;

Township 5 south, range 25 east, sections 12, 18, and 24: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River;

Township 5 south, range 26 east, sections 7, 8, and 17 through 20: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River;

Township 6 south, range 18 east, sections 4 through 9 and 16 through 18;

Township 7 south, range 17 east, sections 12, 13, 24, 25, 26, and 36;

Township 7 south, range 18 east, sections 7, 8, 17 through 20, and 29 through 32;

Township 8 south, range 18 east, sections 1 through 4, 9 through 16, 21 through 28, and 33 through 36;

Township 6 south, range 28 east, sections 31 through 33: *Provided*, That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Hutchison Creek;

Township 7 south, range 28 east, sections 4 through 9, 14 through 23, and 26 through 35;

Township 8 south, range 28 east, sections 2 through 11, and 14 through 18;

Township 7 south, range 21 east, sections 11 through 14, 23 through 26, 35, and 36; and

Township 7 south, range 22 east, sections 2 through 11.

Copper River Meridian

Township 27 north, range 6 east, sections 1, 2, 11, and 12;

Township 27 north, range 7 east, sections 1 through 12;

Township 28 north, range 7 east, sections 31 through 36; and

Township 28 north, range 6 east, sections 35 and 36.

(2) Unless a waiver of any such requirement is obtained from the Secretary, the lands selected by Doyon pursuant to subsection (b)(1) shall consist of tracts which: (a) contain not less than eight sections or five thousand one hundred and twenty acres, whichever is smaller, except for the last tract required to complete Doyon's land entitlement; and (b) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, to conform to section lines where a section is less than standard size, or to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection). Selections under subsection (b)(1), subsection (c), and section 1420 shall not be subject to or charged against the maximum acreage limitations set forth in paragraph 3B(2) (a) and (b) of the Stipulation and Agreement entered into by Doyon and the Secretary in Doyon, Limited against Morton, civil action numbered 1586-73, in the United States District Court for the District of Columbia.

43 USC 1610.
43 USC 1611.

(3) The lands selected by Doyon, Limited, and conveyed by the Secretary pursuant to subsection (b) hereof shall be treated as if such lands had been withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act and had been selected by Doyon pursuant to section 12(c) of that Act. A failure by Doyon, Limited, to select its total land entitlement under subsection (b)(1) shall not affect Doyon's total land entitlement under sections 12(c) and 14(h)(8) of such Act.

43 USC 1611, 1613.

(4) Beginning on the date of enactment of this Act, the lands described in subsection (b)(1) hereof shall be withdrawn from all forms of appropriation under the public land laws as if such lands had been withdrawn pursuant to section 11(a) of the Alaska Native Claims Settlement Act. The Secretary is authorized to terminate such withdrawal with respect to lands not selected by Doyon, Limited, either one year after the Secretary's acreage determination pursuant to subsection (a)(3) hereof or, with respect to the lands subject to such release, upon the giving of notice by Doyon to the Secretary that the corporation is releasing its selection rights under this paragraph to all or part of the withdrawn lands, whichever first occurs. Such withdrawal shall not prevent reasonable surface studies or mineral exploration, including core drilling, by Doyon or its assigns on the lands withdrawn, subject to such rules and regulations as the Secretary may prescribe: *Provided*, That the issuance of regulations under this subparagraph, or any permits thereunder, shall not be subject to any requirement for preparation or submission of an environmental impact statement contained in the National Environmental Policy Act of 1969.

43 USC 1610.

(c)(1) During the withdrawal period specified in subsection (b)(4) hereof, the lands so withdrawn shall also be available for selection by Doyon, Limited, subject to the requirements of subsection (b)(2), in whole or partial satisfaction of its land entitlement under section 14(h)(8) of the Alaska Native Claims Settlement Act, and the period of withdrawal shall be extended with respect to any lands so selected until the date of conveyance pursuant to section 14(e) of such Act. The Secretary shall issue a decision to convey title to the lands selected by Doyon pursuant to this subparagraph, subject to valid existing rights, within one hundred and eighty days after each selection.

Land conveyance decision, issuance.

Land entitlement and conveyance.

(2) At any time after enactment of this Act, but no later than six months after termination of the withdrawal provided in subsection (b)(4) hereof, any or all of the land entitlement of Doyon, Limited, under section 14(h)(8) of the Alaska Native Claims Settlement Act may be satisfied by Doyon's identification of the appropriate acreage within lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act, which were selected by Doyon on or before December 18, 1975, under section 12(c) of such Act, and have not been relinquished. Upon identification by Doyon, Limited, under this paragraph, such acreage shall no longer be deemed a section 12(c) selection, shall be charged against Doyon's section 14(h)(8) land entitlement and shall be conveyed by the Secretary to Doyon in accordance with the provisions of the Alaska Native Claims Settlement Act.

(3) In the event Doyon, Limited, effects a relinquishment under subsection (a) hereof, and the provisions of this paragraph thus become operative, the corporation shall not thereafter make selections under section 14(h)(8) of the Alaska Native Claims Settlement Act on lands which were (a) withdrawn pursuant to section 11(a), but not selected under section 12(c) of such Act and (b) lie within a conservation system unit created or expanded pursuant to this Act:

Provided, That all Doyon's other selection rights under section 14(h)(8) shall not be affected.

Rights-of-way applications.

(d)(1) In recognition of the potential need of Doyon, Limited, for access in a southerly direction from its landholdings in the watersheds of the Kandik and Nation Rivers across the Yukon River, the Secretary shall review applications submitted by Doyon, Limited, for one or more rights-of-way which, in order to provide such access, would pass through public lands within the Yukon-Charley National Preserve.

(2) The Secretary shall approve an application reviewed under paragraph (1) of this subsection, and shall grant the right-of-way requested in such application, if he determines that there exists no economically feasible or otherwise reasonably available alternative route.

(3) Each right-of-way granted under this subsection shall be subject to such reasonable regulations issued by the Secretary as are necessary to minimize the adverse impact of such right-of-way upon any conservation system unit.

(4) No rights-of-way shall be granted under this subsection which would cross the Charley River or which would involve any lands within the watershed of the Charley River.

HODZANA RIVER STUDY AREA

SEC. 1420. (a) Subject to the provisions of section 1419 (b) and (c) of this Act, the following described lands, during the period of withdrawal specified in section 1419(b)(4), shall be set aside and managed as a study area by the United States Fish and Wildlife Service in cooperation with Doyon, Limited:

Beginning at elevation point 2970 which lies within the northeast one-quarter of section 10, township 21 north, range 9 west Fairbanks meridian;

thence westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 10, 9, 8, 7, and 6 of township 21 north, range 9 west Fairbanks meridian to the true point of beginning which is the intersection of the crest of the ridgeline of which elevation point 2970 is a part with the township line which separates section 6, township 21 north, range 9 west Fairbanks meridian and section 1, township 21 north, range 10 west Fairbanks meridian;

thence from the true point of beginning; westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 1, 2, 3, 4, 9, 8, 5, 7, and 6 of township 21 north, range 10 west Fairbanks meridian, and through sections 1, 2, and 3 of township 21 north, range 11 west Fairbanks meridian to the intersection of the crest of the aforementioned ridgeline with the crest of the ridgeline which is the watershed boundary between the Hodzana River and west flowing tributaries of the South Fork of the Koyukuk River;

thence southerly and westerly along the crest of this watershed boundary through sections 3, 10, 15, 16, 17, 20, 21, 29, 32, and 31 of township 21 north, range 11 west Fairbanks meridian, section 36 of township 21 north, range 12 west Fairbanks meridian, sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 36, 34, and 35 of township 20 north, range 12 west Fairbanks meridian, and to the northeast one-quarter of section 3, township 19 north, range 12 west Fairbanks meridian where the crest of the watershed of the Hodzana River turns in an easterly direction and becomes, first

the divide between the watershed of the Hodzana and Kanuti Rivers and then the divide between the Hodzana and Dall Rivers;

thence easterly along the crest of this watershed to the peak of Dall Mountain which lies within the southeast one-quarter of section 1, township 19 north, range 11 west Fairbanks meridian;

thence northeasterly along the crest of Dall Mountain to the intersection of the crest of Dall Mountain with the line between township 20 north, range 9 west Fairbanks meridian and township 20 north, range 10 west Fairbanks meridian which intersection lies approximately on elevation point 3491, the highest point of Dall Mountain on the eastern line of section 36 township 20 north, range 10 west Fairbanks meridian;

thence north along the township line between townships 20 and 21 north, ranges 9 and 10 west Fairbanks meridian to the true point of beginning at the intersection of the crest of the heretofore described west trending ridgeline and this township line, which point lies between section 6 township 21 north, range 9 west Fairbanks meridian and section 1 township 21 north, range 10 west Fairbanks meridian.

This description is based upon United States Geological Survey Quadrangle Beaver, Alaska, 1956 with minor revisions 1972, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F-2, F-3, F-6, and F-7 Fairbanks meridian, and United States Geological Survey Quadrangle Bettles, Alaska, 1956 with minor revisions 1973, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F-3, F-4, F-5, and F-6. The use of these quadrangles and the protracted land lines thereon is for purposes of convenience in describing the lands within the Hodzana River Study Area. The actual area is to be within the above-described basin, and should any discrepancy appear upon on the ground determination of the location of the watershed boundary, the watershed boundary shall control, not the land lines protracted upon the aforementioned United States Geological Survey Quadrangles.

(b) During the study period herein provided, Doyon, Limited, may, under such reasonable rules and regulations as the Secretary finds necessary to protect the water quality and quantity of the Hodzana River, conduct such investigations within the study area, including core drilling, which will not materially disturb the land surface, as are required to determine the extent of mineralization therein. During the study period, the Fish and Wildlife Service is authorized to undertake such studies of the Hodzana River and its environs as are required to determine the measures to undertake and the regulations necessary to protect and maintain the water quality and quantity of the Hodzana River should lands in its watershed be selected by Doyon, Limited and the minerals therein be developed. Upon agreement with Doyon, Limited, the Secretary is authorized to extend the study period up to an additional two years; if so, the duration of the withdrawal from appropriation for the lands described in subsection (1) hereof and the time during which Doyon, Limited may select such lands or identify such lands for conveyance shall be extended for a like period.

Land conveyances, selections, and identifications.

(c) The right of Doyon, Limited to land conveyances within the study area shall be limited to twenty-three thousand and forty acres. Any selections or land identifications by the corporation within the study area also shall be subject to the provisions of subsection 1419(b)(2) of this Act, unless the results of the study indicate, and

Doyon and the Secretary agree, that some or all of such requirements should be waived.

(d) In the event Doyon receives conveyance in the study area, the corporation shall have those rights of access to the lands involved as are reasonably necessary for the economic operation of such mineral developments. Upon final termination of mining activity, Doyon shall restore any access roads as may be agreed upon by Doyon and the Secretary. Rights of access.

(e) The National Environmental Policy Act of 1969 shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement before the issuance of regulations under this paragraph, or any permit relating to mineral development, the conduct of any investigation in the study area, the conveyance of interests therein to Doyon or the grant of any easement or right-of-way to the lands involved. The Secretary, however, is authorized to promulgate such regulations as may reasonably be necessary to protect the water quality and quantity, and to prevent substantial adverse environmental degradation, of the Hodzana River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act. Regulations. 42 USC 4321 note.

CONVEYANCE TO THE STATE OF ALASKA

SEC. 1421. In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act and regardless of whether such lands lie within the boundaries of a conservation system unit established, designated, redesignated, or expanded by this Act, the United States shall, upon Doyon's meeting the terms and conditions set forth in section 1419(a)(1), convey to the State of Alaska all right, title and interest of the United States in: 48 USC note prec. 21.

(1) the following lands located south of Circle on the Yukon River:

Fairbanks Meridian

Township 8 north, range 18 east, section 1;

Township 8 north, range 19 east, That portion of sections 1 through 18, inclusive, lying south and west of the mean high water line of the Yukon River;

Township 8 north, range 20 east, That portion of sections 7 and 18 lying west of the mean high water line of the Yukon River;

Township 9 north, range 17 east;

Township 9 north, range 18 east, That portion lying south and west of the mean high water line of the Yukon River; and

Township 9 north, range 19 east, That portion lying south and west of the mean high water line of the Yukon River.

(2) Upon relinquishment by Doyon, Limited of all land selections pursuant to section 1419(a) of this Act, the lands described in subparagraphs 1419(a)(1)(D).

DOYON AND FORTYMILE RIVER

SEC. 1422. (a) Subject to the provisions of subsections (b) and (c) of this section, Doyon, Limited shall have the right within one year after the date of enactment of this Act to identify some or all of the following described lands, previously selected by such corporation, in Land identification rights.

43 USC 1611.
43 USC 1616.

partial satisfaction of its entitlement under section 12(c) of the Alaska Native Claims Settlement Act:

(1) Lands withdrawn pursuant to section 17(d)(1) and formerly withdrawn pursuant to section 17(d)(2), of the Alaska Native Claims Settlement Act:

Fairbanks Meridian

Township 1 south, range 27 east, sections 24, 25, 34, 35, 36;
Township 1 south, range 28 east, sections 19, 20, 21, 28 through 32;
Township 2 south, range 27 east, sections 1 through 4, 8 through 12, 14 through 17, 19 through 22, 27 through 33;
Township 3 south, range 24 east, sections 20 through 25, 27 through 34;
Township 3 south, range 25 east, sections 2 through 5, 8 through 10, 15 through 22, 27 through 34;
Township 3 south, range 26 east, sections 13, 22 through 28, 31 through 36;
Township 3 south, range 27 east, sections 4 through 8, 17, 18;
Township 3 south, range 28 east, sections 1 through 5, 9 through 11, 14 through 16, 21 through 23, 26, 27;
Township 3 south, range 29 east, sections 11 through 15, 20 through 24, 26 through 34;
Township 4 south, range 25 east, sections 1 through 5, 8 through 17;
Township 4 south, range 26 east, sections 2 through 10, 17, 18;
Township 4 south, range 28 east, sections 1, 2;
Township 4 south, range 29 east, sections 1 through 18;
Township 5 south, range 25 east, sections 1, 4 through 10, 12 through 17, 20 through 24, 28, 29;
Township 5 south, range 26 east, sections 4 through 8, 17 through 19;
Township 6 south, range 23 east, section 34;
Township 6 south, range 25 east, sections 22, 27, 28, 32 through 35;
Township 7 south, range 22 east, sections 23 through 26, 35, 36;
Township 7 south, range 23 east, sections 3 through 9, 17 through 19, 30, 31;
Township 7 south, range 24 east, sections 1, 2, 10 through 16, 21 through 24, 26 through 29, 31 through 34;
Township 7 south, range 25 east, sections 6 through 8, 17 through 21, 28 through 33;
Township 8 south, range 21 east, sections 13, 23 through 28, 33 through 36; and
Township 8 south, range 22 east, sections 1 through 4, 8 through 23, 28 through 33.

Copper River Meridian

Township 19 north, range 16 east, sections 3 through 9, 17 through 20;
Township 20 north, range 14 east, sections 1 through 18, 20 through 22;

Township 20 north, range 15 east, sections 2 through 11, 13 through 17, 21 through 28, 32 through 36;
Township 20 north, range 16 east, sections 13, 14, 21 through 29, 31 through 36;
Township 21 north, range 12 east, sections 2 through 10, 17 through 20, 30;
Township 21 north, range 13 east, sections 1 through 5, 10 through 14, 23 through 24;
Township 21 north, range 15 east, sections 30, 31, 32;
Township 22 north, range 12 east, sections 4 through 11, 13 through 27, and 36;
Township 22 north, range 13 east, sections 18 through 21, 26 through 36;
Township 24 north, range 11 east, sections 22 through 27, 34 through 36;
Township 24 north, range 12 east, sections 3 through 33;
Township 24 north, range 13 east, sections 2 through 4, 7 through 11, 14 through 23, 30;
Township 25 north, range 11 east, sections 4 through 10, 14 through 18, 20 through 28, 34 through 36;
Township 25 north, range 12 east, sections 31, 32, 33;
Township 25 north, range 13 east, sections 1 through 3, 9 through 16, 21 through 23, 26 through 28, 32 through 35;
Township 26 north, range 13 east, sections 1 through 3, 12;
Township 26 north, range 14 east, sections 4 through 10, 14 through 18, 20 through 23, 26, 27, 31 through 36;
Township 27 north, range 9 east, sections 1 through 3, 9 through 12, 14 through 16, 20 through 23, 26 through 29, 32 through 34;
Township 27 north, range 10 east, sections 2 through 4, 9 through 11, 14 through 18, 21 through 27, 34 through 36;
Township 27 north, range 13 east, sections 3 through 10, 14 through 17, 21 through 28, 34 through 36;
Township 27 north, range 14 east, sections 30, 31, 32;
Township 28 north, range 9 east, sections 35, 36; and
Township 28 north, range 10 east, sections 31 through 35.

(2) Lands withdrawn pursuant to section 17(d)(2) of the Alaska Native Claims Settlement Act some or all of which may not be included within the boundaries of the Fortymile Wild, Scenic and/or Recreational River. 43 USC 1616.

Fairbanks Meridian

Township 3 south, range 27 east, sections 19 through 36;
Township 3 south, range 28 east, sections 28 through 34;
Township 4 south, range 28 east, sections 3 through 6, 8 through 17, 19 through 33, 36;
Township 4 south, range 29 east, sections 19 through 22, 25 through 36;
Township 4 south, range 30 east, sections 1, 2, 11 through 13, 24, 25, 28 through 36;
Township 4 south, range 31 east, sections 6 through 8, 17 through 20, 29 through 32;
Township 5 south, range 25 east, sections 25 through 27, 33 through 36;
Township 5 south, range 26 east, sections 13 through 15, 20 through 35;

Township 5 south, range 27 east, sections 7 through 24, 29, 30;
Township 5 south, range 28 east, sections 2 through 5, 7 through 10, 15 through 23, 25 through 30, 33 through 36;
Township 5 south, range 29 east, sections 29 through 32;
Township 5 south, range 30 east, sections 1 through 6, 11, 12;
Township 5 south, range 31 east, sections 4 through 9;
Township 5 south, range 32 east, sections 24 through 27, 34 through 36;
Township 5 south, range 33 east, sections 2 through 4, 8 through 11, 14 through 22, 28 through 32;
Township 6 south, range 23 east, sections 2, 3, 10 through 15, 22 through 27, 35, 36;
Township 6 south, range 24 east, sections 13, 14, 17 through 36;
Township 6 south, range 25 east, sections 2 through 5, 7 through 11, 15 through 21, 29, 30;
Township 6 south, range 32 east, sections 1 through 5, 8 through 11, 14 through 17, 20 through 22, 27 through 29, 32 through 35;
Township 7 south, range 31 east, sections 13 through 17, 19 through 34;
Township 7 south, range 32 east, sections 3 through 5, 7 through 10, 13 through 30, 34 through 36;
Township 7 south, range 33 east, sections 13, 19, 24 through 27, 29 through 36; and
Township 7 south, range 34 east, sections 4, 7 through 9, 16 through 21, 28 through 33.

Copper River Meridian

Township 26 north, range 14 east, sections 12, 13, 24, 25.

Land identification and conveyance.

(b) Doyon, Limited shall have a right to identify only those lands described in subsection (a) hereof which are not included within a conservation system unit pursuant to this Act, and each selection so identified shall be subject to the provisions of subsection 1419(b)(2) of this Act. The Secretary shall convey title to the land promptly after its identification by Doyon, Limited, subject to valid existing rights.

Effective date.

(c) The provisions of this section shall take effect only upon the execution and filing of a stipulation by Doyon, Limited, consenting to the dismissal, with prejudice, of Doyon, Limited against Andrus, Civil Action numbered 78-1148 in the United States District Court for the District of Columbia, within sixty days after the effective date of this Act.

ARTNA REGIONAL CORPORATION LANDS

SEC. 1423. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section:

43 USC 1613.

Fairbanks Meridian

Township 20 south, range 5 west, sections 7 through 9, 11 through 14, 16 through 21, 23 through 26, 28 through 33, 35, 36;
Township 20 south, range 6 west, sections 1 through 36;
Township 20 south, range 7 west, sections 1 through 5, 8 through 14, 23 through 36;

Township 20 south, range 8 west, sections 1 through 28, 33 through 36; and

Township 20 south, range 9 west, sections 22 through 27, 34 through 36.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Ahtna, Incorporated, may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a). Land selection. 43 USC 1613.

(2) The lands selected by Ahtna, Incorporated, unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which:

(A) contain not less than eight sections or one thousand two hundred and eighty acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the conveyance of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act. Land conveyance. 43 USC 1601 note.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Ahtna, Incorporated, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Ahtna, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act. 43 USC 1616. *Ante*, p. 2437.

BERING STRAITS REGIONAL CORPORATION LANDS

SEC. 1424. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section: 43 USC 1613.

Kateel River Meridian

Tract one—Township 6 north, range 36 west, sections 2, 3, 4, 9, 10, 11, 14, 15, 16;

Tract two—Township 1 north, range 40 west, sections 19, 20, 21, 28–33;

Tract three—Township 3 south, range 21 west, sections 23, 26, 35;

Township 4 south, range 21 west, sections 1, 2, 3;

Tract four—Township 7 south, range 35 west, sections 11, 14, 23, 26, 34, 35, 36;

Township 8 south, range 35 west, sections 1, 2, 3;

Tract five—Township 8 south, range 33 west, sections 19, 20, 21, 27–34;

Tract six—Township 10 south, range 9 west, section 31;

Township 10 south, range 10 west, sections 35, 36;

Township 11 south, range 9 west, sections 6, 7;

Township 11 south, range 10 west, sections 1, 2, 11, 12;
Tract seven—Township 16 south, range 13 west, sections 5, 6, 7, 8; and
Tract eight—Fairway Rock located within Teller Quadrangle 65 degrees 35 minutes north, 165 degrees 45 minutes west.

Land selection.

43 USC 1613.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Bering Straits Native Corporation may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a).

(2) The lands selected by Bering Straits Native Corporation unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which—

(A) are not less than the lesser of (1) the entire area within any single tract withdrawn pursuant to subsection (a), or (2) eight sections, or (3) five thousand one hundred and twenty acres; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

Land conveyance.

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyance pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Bering Straits Native Corporation shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

43 USC 1616.
Ante, p. 2457.

43 USC 1613.

(f) Any selection pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act of any land withdrawn by subsection (a) of this section shall preempt any prior selection of the same lands by Bering Straits Native Corporation under any other authority of law. Failure to select under section 14(h)(8) of the Alaska Native Claims Settlement Act any particular lands withdrawn by subsection (a) of this section will not affect any prior valid selection under section 14(h)(1) of the Alaska Native Claims Settlement Act but such prior selection shall be adjudicated and conveyed, if valid, pursuant to the Alaska Native Claims Settlement Act and any applicable regulations.

Punuk Islands, land conveyance.

43 USC 1618.

(g) In recognition that the Punuk Islands are located within the boundary of the former Saint Lawrence Island Reindeer Reserve, pursuant to section 19(b) of the Alaska Native Claims Settlement Act there is hereby conveyed to and vested in the Gambell Native Corporation and Savoonga Native Corporation all of the right, title, and interest of the United States in and to said Islands, including adjacent islets and rocks, located at Kateel River Meridian, Saint Lawrence Quadrangle, 63 degrees, 5 minutes north latitude, 168 degrees, 50 minutes west longitude.

ESKLUTNA VILLAGE CORPORATION LANDS

SEC. 1425. ESKLUTNA-STATE AGREEMENTS AND NEGOTIATIONS.—(a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to consolidate ownership among the United States, the State of Alaska, the Municipality of Anchorage, Eklutna, Incorporated, and Cook Inlet Region, Incorporated, thereby facilitating land management, a fair implementation of the Alaska Native Claims Settlement Act, the protection of State public park lands and resources, and appropriate development patterns in and about Anchorage, Alaska.

Claims and litigation, settlement.

43 USC 1601 note.

(b) The Secretary shall accept relinquishments and make conveyances of selections in accordance with the specific terms, conditions, covenants, reservations, and other restrictions set forth in any agreement respecting the lands described in subparagraph (1) below, executed by the State of Alaska, by the Municipality of Anchorage, and by Eklutna, Incorporated, and hereafter submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs and filed with the Secretary, the execution and implementation of which agreement are hereby authorized as to those duties and obligations of the United States, the State of Alaska, the Municipality of Anchorage, and Eklutna, Incorporated, which arise under Federal law: *Provided, however,* That any conveyance under such agreement of lands to Eklutna, Incorporated, shall be only of the surface estate, with a subsequent conveyance to Cook Inlet Region, Incorporated, of the subsurface estate except as otherwise provided in subsection (h). In aid thereof:

Agreements, submittal to congressional committees.

(1) The following lands located within the townships described in sections 11(a) (1) and (2) of the Alaska Native Claims Settlement Act with respect to the Native Village of Eklutna are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and including Public Law 94-204, except section 12 thereof, and from selection under the Alaska Statehood Act, or any statutes authorizing selections by the State of Alaska: (A) lands withdrawn or reserved for national defense purposes; and (B) lands determined by the Secretary under section 3(e)(1) of the Alaska Native Claims Settlement Act not to be public lands for purposes of the Alaska Native Claims Settlement Act. This withdrawal and the agreement shall not affect the administrative jurisdiction of the Department of Defense or any other holding agency over the lands withdrawn, but all forms of disposition other than in accordance with this section and the agreement are prohibited: *Provided,* That the foregoing to the contrary notwithstanding, lands placed prior to July 15, 1979, in the pool contemplated by part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8-13-76", but only to the extent authorized by that document under section 12 of Public Law 94-204 as amended heretofore and in accordance with the procedures and with the consents and approvals required by laws, regulations and Executive orders in effect on such date of placement, may be selected by Cook Inlet Region, Incorporated, free of the effects of the agreement pursuant to this section; if the lands placed in that pool are not thereafter selected in accordance with part I.C.(2) of that document any agreement pursuant to this section shall govern: *Provided further,* That neither the revocation of certain withdrawals of lands made by subsection (b) effective upon the filing of the agreement, nor the expiration of the withdrawal made by subsection (b) in the event no agreement is

Withdrawal. 43 USC 1610.

43 USC 1604 note, 1611 note. 48 USC note prec. 21.

43 USC 1602.

43 USC 1611 note.

reached, shall be deemed an action causing those lands affected thereby to be subject to disposition under such section 12. The withdrawal made by this subsection (b) will expire March 15, 1982, if an executed agreement described in this section is not filed by the parties thereto on or before that date with the Secretary in the Alaska State Office of the Bureau of Land Management; but if an agreement is so executed, rights under the agreement shall vest as of the effective date of this Act, and this withdrawal shall become permanent, except as otherwise provided in the agreement. The agreement shall not impose upon the United States obligations or outlays of funds, except as reasonable in the ordinary course of business, or impose any procedural requirements or require the reassignment of personnel; and any of its provisions to the extent to the contrary shall be void as against the Secretary.

Land conveyance.

(2) Upon termination or revocation of any national defense withdrawal or reservation or of any other withdrawal in effect December 18, 1971, respecting lands described in subsection (b)(1), or upon declaration of their excess status in whole or in part, whichever first occurs, but not before, and from time to time, the lands excessed or as to which the withdrawal is terminated or revoked shall be conveyed to Eklutna, Incorporated, as to the surface estate and Cook Inlet Region, Incorporated as to the subsurface estate, or to the State of Alaska (for reconveyance by the State of Alaska in whole or in part to the Municipality of Anchorage), as may be provided in the agreement described in this subsection: *Provided, however,* That such conveyance shall not be made of lands in the pool established under part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8-31-76" under section 12 of Public Law 94-204 as amended heretofore, unless and until removed from that pool in accordance with such part I.C.(2). This section and the agreement shall preempt the procedures of the Federal Property Act (40 U.S.C. 471, et seq., and of 41 CFR 101-47.000 et seq.), (other than as to fixtures and personalty) and the preference right for State selection of section 6(g) of the Alaska Statehood Act. The conveyances to Eklutna, Incorporated, of lands withdrawn by this subsection called for by the agreement shall not be subject to section 1613(c) of title 43, United States Code. This section shall revoke PLO 5187 as it pertains to any lands withdrawn by this subsection and any power project withdrawals other than Power Project 350 as to such lands, effective upon the date of filing of the agreement. Lands conveyed to the State of Alaska, the surface estate of lands conveyed to Eklutna, Incorporated, and the subsurface estate conveyed to Cook Inlet Region, Incorporated, pursuant to this section and the agreement, shall be charged against their respective entitlements under sections 12 and 14 of the Settlement Act and be considered conveyed and received pursuant to the Settlement Act, and section 6 of the Alaska Statehood Act or section 906(c) of this Act.

43 USC 1611 note.

43 USC 1611, 1613.

43 USC 1601 note.

(c) If an agreement to the following effect executed by the State of Alaska and Eklutna, Incorporated, is hereafter filed with the Secretary in the Alaska State Office of the Bureau of Land Management on or before April 2, 1982, the public lands as defined in the Settlement Act, located within township 17 north, range 3 east, Seward Meridian, Alaska, shall be deemed to have been withdrawn pursuant to section 11(a) of the Settlement Act as of December 18, 1971, and, selections heretofore made by Eklutna, Incorporated, with respect to lands therein shall be processed by the Secretary as though said selections had been made within a township heretofore validly withdrawn pursuant to section 11(a). If no such agreement is filed,

43 USC note prec. 21.

Agreements filed.

43 USC 1601 note.

43 USC 1610.

this subsection shall not be held to affect the validity or invalidity of such selections. Whether or not any agreement is filed, this subsection shall not be held to affect the validity or invalidity of any third party interest heretofore created by the State of Alaska.

(d) Notwithstanding other provisions of this Act, the State and Eklutna, Incorporated, are each authorized to relinquish, in whole or in part, pursuant to either or both of the agreements contemplated by subsections (b) and (c), any one or more land selections affecting lands to be conveyed under the agreement to the other whether or not such selections have been previously approved or tentatively approved. The lands affected by the State selections so relinquished shall be deemed public lands as of December 18, 1971, as that term is defined in the Settlement Act.

(e) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78-24 Civil in the United States District Court for the District of Alaska, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all lands in township 17 north, range 3 east, Seward Meridian, which are to be conveyed to Eklutna, Incorporated, under the agreement referred to in subsection (c).

(f) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78-192 Civil in the United States District Court for the District of Alaska except as to the lands affected thereby which under the agreement referred to in subsection (b) are to remain in litigation in that cause, if any, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all those lands which under the agreement the State agrees are to be conveyed to Eklutna, Incorporated, from among those selected at one time by the State under the authority of the Mental Health Enabling Act of 1956 (70 Stat. 709).

(g) The Secretary shall convey to Eklutna, Incorporated, its entitlement without regard to the acreage or interests which may ultimately be conveyed to Eklutna, Incorporated, under the agreement from within lands withdrawn by subsection (b). The agreement shall, however, require Eklutna, Incorporated, to subject to section 907 of this Act one or more compact tracts of lands of at least equal acreage to that ultimately to be conveyed to Eklutna, Incorporated, under the agreement from those withdrawn by subsection (b). The agreement shall require Eklutna, Incorporated, to reconvey to the State lands from those subject to section 907 in an amount provided by the agreement, upon the occasion of each receipt of lands by Eklutna, Incorporated, from among those withdrawn by subsection (b). Lands received by the State in such a reconveyance from Eklutna, Incorporated, shall be charged, to the extent of the acreage received by Eklutna, Incorporated, in the relevant conveyance to it, against the State's entitlement under section 6 of the Alaska Statehood Act, or section 906(c) of this Act, as the State may elect. If thereby the State receives more than its entitlements under the Act elected, it shall reconvey to the United States a compact tract of unencumbered State lands of equal acreage contiguous to lands belonging to the United States. Eklutna, Incorporated, shall also subject to section 907 of this Act, once an agreement under subsection (c) exists and thereafter from time to time, one or more compact tracts which equals the acreage amount by which Eklutna, Incorporated's entitlement would be over satisfied considering the acreage already conveyed to Eklutna, Incorporated; to the extent such a risk of over entitlement abates the lands may be withdrawn from the Land Bank.

Ante, p. 2444.

48 USC note prec. 21.
Ante, p. 2437.

Ante, p. 2444.

(b) In the event that Eklutna, Incorporated, receives a conveyance from the United States of the surface estate in lands withdrawn by subsection (b) pursuant to the agreement authorized in that subsection, and if a reconveyance from Eklutna, Incorporated, of the surface estate in land to the State from those subject to section 907 of this Act is thereby occasioned, a conveyance of the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be withheld until the Secretary ascertains to whom the subsurface estate is to be conveyed under this subsection. The entity owning the subsurface estate in those reconveyed lands shall retain that interest, unless it in the agreement or separately consents to convey the same to the State. In the event such entity so consents to convey the subsurface to the State, the Secretary shall convey the subsurface estate in the lands conveyed to Eklutna, Incorporated, to that entity; if such entity does not so consent, the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be conveyed to the State.

Ante, p. 3444.

EKLUTNA-STATE ANCHORAGE AGREEMENT

Claims and litigation, settlement.

SEC. 1426. (a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to implement section 14 of the Settlement Act under the unique circumstances of the Native Village of Eklutna, with respect to the municipality of Anchorage.

(b) The terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Agreement of Compromise and Settlement" submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, executed by Eklutna, Incorporated, and the municipality of Anchorage, acting by its mayor, and to be executed by the State of Alaska, acting by the commissioner of the department of community and regional affairs, are hereby ratified as to the rights, duties, and obligations of the State of Alaska, the municipality of Anchorage, and Eklutna, Incorporated, which arise among them under section 14(c) (2) and (3) of the Settlement Act, and Eklutna, Incorporated, is discharged accordingly from section 14(c)(3) thereof as to all lands heretofore selected by it.

(c) If, for any reason, the foregoing agreement is not executed by the State of Alaska this section shall be of no force and effect.

KONIAG VILLAGE AND REGIONAL CORPORATION LANDS

Definitions.

SEC. 1427. (a) As used in this section, the term—

(1) "Afognak Island" means Afognak Island, and Bear, Teck, Hogg, and Murphy Islands, above the line of mean high tide within the exterior boundaries of the Chugach National Forest. Murphy Island is that unnamed island shown on USGS Topographical Map, Scale 1:63360 entitled "Afognak B-2, 1952, Rev. 1967", lying in Seward Meridian, Alaska, Township 21 south, Range 19 west, that shares the common corner of sections 27, 28, 33, and 34.

(2) "Deficiency village acreage on the Alaska Peninsula" means the aggregate number of acres of public land to which "Koniag deficiency Village Corporations" are entitled, under section 14(a) of the Alaska Native Claims Settlement Act, to a conveyance of the surface estate on account of deficiencies in available lands on Kodiak Island, and to which Koniag, Incorporated is entitled under section 14(f) of that Act to conveyance of the subsurface estate.

43 USC 1613.

(3) "12(b) acreage on the Alaska Peninsula" means the aggregate number of acres of public lands to which "Koniag 12(b) Village Corporations" are entitled under section 14(a) of the Alaska Native Claims Settlement Act by reason of section 12(b) of that Act, to conveyance of the surface estate and to which Koniag, Incorporated, under section 14(f) of that Act, is entitled to conveyance of the subsurface estate, less the aggregate acreage of 12(b) lands on Kodiak Island as to which Koniag 12(b) Village Corporations will receive conveyances, the latter being estimated to be approximately fifteen thousand acres. 43 USC 1613, 1611.

(4) "Koniag deficiency village corporation" means any or all of the following:

Afognak Native Corporation;
Nu-Nachk-Pit, Incorporated;
Ouzinkie Native Corporation; and
Leisnoi, Incorporated.

(5) "Koniag 12(b) Village Corporation" means the village corporations listed in subparagraph (4) above, if within sixty days of the effective date of this Act, Koniag, Incorporated, by a resolution duly adopted by its Board of Directors, designates them as such as a class, and all of the following: Natives of Akhiok, Incorporated, Old Harbor Native Corporation, Kaguyak, Inc., Karluk Native Corporation and each of the corporations listed in subsection (e)(2) of this section which files a release as provided for in subsection (e)(1) of this section.

(6) "Koniag region" means the geographic area of Koniag, Incorporated, under the Alaska Native Claims Settlement Act. 43 USC 1601 note.

(7) "Koniag village" means a Native village under the Alaska Native Claims Settlement Act which is within the Koniag region.

(8) "Koniag Village Corporation" means a corporation formed under section 8 of the Alaska Native Claims Settlement Act to represent the Natives of a Koniag village and any Village Corporation listed in subsection (e)(2) of this section which has filed a release as provided in subsection (e)(1) of this section. 43 USC 1607.

(9) "Koniag 14(h)(8) lands on the Alaska Peninsula" means the aggregate number of acres of public lands to which Koniag, Incorporated Regional Native Corporation is entitled under section 14(h)(8) of the Alaska Native Claims Settlement Act, less the acreage of lands withdrawn for conveyance to that corporation by Public Land Order Numbered 5627 (42 F.R. 63170) and conveyed to that corporation. 43 USC 1613.

(10) Any term defined in subsection 3(e) of the Alaska Native Claims Settlement Act has the meaning therein defined. 43 USC 1602.

(11) "Alaska Peninsula" means the Alaska Peninsula and all islands adjacent thereto which are withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and Koniag, Incorporated, including but not limited to Sutwik, Hartman, Terrace, Nakchamik, and West and East Channel Islands, except those islands selected by Koniag, Inc. pursuant to section 15 of Public Law 94-204." 43 USC 1610.

(b)(1) In full satisfaction of (A) the right of Koniag, Incorporated, Regional Native Corporation to conveyance of Koniag 14(h)(8) lands on the Alaska Peninsula under the Alaska Native Claims Settlement Act; (B) the right of each Koniag Deficiency Village Corporation to conveyance under that Act of the surface estate of deficiency village acreage on the Alaska Peninsula; (C) the right of each Koniag 12(b) Village Corporation to conveyances under the Alaska Native Claims Settlement Act of surface estate of 12(b) acreage on the Alaska Peninsula; (D) the right of Koniag, Incorporated under the Alaska Native Claims Settlement Act to conveyances of the subsurface estate 43 USC 1611 notes. Land conveyances. 43 USC 1601 note.

43 USC 1611, 1613.

of the deficiency village acreage on the Alaska Peninsula and of the 12(b) acreage on the Alaska Peninsula; and (E) the right of Koniag, Incorporated, to receive the minerals in the subsurface estates that, under subsection (g)(3) of this section and sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, it will be conveyed on the Alaska Peninsula, other than oil and gas and sand and gravel that it will be conveyed as provided in subsection (i) of this section; and in lieu of conveyance thereof otherwise, the Secretary of the Interior shall, under the terms and conditions set forth in this section, convey as provided in subsection (c) of this section the surface estate of all of the public lands on Afognak Island except those lands referred to in subparagraphs 2 (A), (B), (C), and (D) of this subsection, and simultaneously therewith, the Secretary shall, under the terms and conditions set forth in this section, convey the subsurface estate of such lands to Koniag, Incorporated.

(2) There are excepted from the conveyances provided for in subparagraph (1) of this subsection:

48 USC notes prec. 21.

(A) Selections of the State of Alaska on Afognak Island heretofore made under section 6(a) of the Alaska Statehood Act and described as follows:

Seward Meridian, Alaska

Parcel I

Township 22 south, range 17 west, section 30, 31 fractional all southwest quarter;

Township 22 south, range 18 west, section 36, southeast quarter;

Township 23 south, range 17 west, sections 6, northeast quarter, 7, west half; 18, west half; 19, west half and southeast quarter; 20, southwest quarter; 29, west half, 30 all; and

Township 23 south, range 18 west, section 1, east half; 12, east half; 13 all; 24 all; 25 all.

Parcel II

Township 22 south, range 17 west, section 30, all; 31 all;

Township 22 south, range 17 west, section 6, northeast quarter;

(B) Surface estate of lands on Afognak Island to which Afognak Native Corporation, Ouzinkie Native Corporation and Natives of Kodiak, Incorporated are entitled pursuant to the Alaska Native Claims Settlement Act and the subsurface estate of such lands;

(C) The lands on Afognak Island referred to in subsection (d) of this section if conveyed as therein provided; and

(D) The following described lands:

Seward Meridian, Alaska

Beginning at the point for the meander corner of sections 7 and 18, township 22 south, range 21 west, Seward meridian at the line of mean high tide on the easterly shore of Foul Bay, southeasterly of Ban Island;

thence easterly, between sections 7 and 18, 8 and 17, 9 and 16, approximately 2¼ miles to the corner of sections 9, 10, 15, and 16, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 9 and 10, approximately 1 mile to the corner of sections 3, 4, 9 and 10, township 22 south, range 21 west, Seward meridian;

thence easterly, between sections 3 and 10, 2 and 11, approximately 2 miles to the corner of sections 1, 2, 11 and 12, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 1 and 2, approximately one-half mile to the one-quarter section corner of sections 1 and 2, township 22 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 1, approximately one-half mile to the center one-quarter section corner of section 1, township 22 south, range 21 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 1 and 36, approximately 1 mile to the center one-quarter section corner of section 36, township 21 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 36, approximately one-half mile to the one-quarter section corner of sections 31 and 36, township 21 south, ranges 20 and 21 west, Seward meridian;

thence northerly, between ranges 20 and 21 west, approximately 2¼ miles to the corner of sections 13, 18, 19, and 24, township 21 south, ranges 20 and 21 west, Seward meridian;

thence easterly, between sections 18 and 19, 17 and 20, approximately 1½ miles to the one-quarter section corner of sections 17 and 20, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 17, approximately one-half mile to the center one-quarter section corner of section 17, township 21 south, range 20 west, Seward meridian;

thence easterly, on the east-west centerline of section 17, approximately one-half mile to the one-quarter section corner of sections 16 and 17, township 21 south, range 20 west, Seward meridian;

thence northerly, between sections 16 and 17, approximately one-half mile to the corner of sections 8, 9, 16, and 17, township 21 south, range 20 west, Seward meridian;

thence easterly, between sections 9 and 16, approximately one-half mile to the one-quarter section corner of sections 9 and 16, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 4 and 9, approximately 2 miles to the closing subdivision corner of section 4, township 21 south, range 20 west, Seward meridian;

thence westerly, on the fifth standard parallel south, approximately 2¼ miles to the standard corner of sections 31 and 32, township 20 south, range 20 west, Seward meridian;

thence northerly, between sections 31 and 32, approximately 1 mile to the corner of sections 29, 30, 31, and 32, township 20 south, range 20 west, Seward meridian;

thence westerly, between sections 30 and 31, approximately one-half mile to the one-quarter section corner of sections 30 and 31, township 20 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 30, approximately one-half mile to the center one-quarter section corner of section 30, township 20 south, range 20 west, Seward meridian;

thence westerly, on the east-west centerline of section 30, approximately one-half mile to the one-quarter section corner of sections 25 and 30, township 20 south, ranges 20 and 21 west, Seward meridian;

thence southerly, between ranges 20 and 21 west, approximately one-half mile to the corner of sections 25, 30, 31, and 36, township 20 south, ranges 20 and 21 west, Seward meridian;

thence westerly, between sections 25 and 36, approximately 1 mile to the corner of sections 25, 26, 35, and 36, township 20 south, range 21 west, Seward meridian;

thence northerly, between sections 25 and 26, approximately one-half mile to the point for the meander corner of sections 25 and 26, township 20 south, range 21 west, Seward meridian, at the line of mean high tide of the southerly arm of Bluefox Bay;

thence westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point for the intersection of the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian on the northerly shore of Devil Inlet;

thence southerly, on the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian, across Devil Inlet, to the line of mean high tide on the southerly shore of Devil Inlet; and

thence westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point of beginning.

43 USC 1610.

(3) All public lands on the Alaska Peninsula withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated and all lands conveyed to such corporations subject to reconveyance to the United States upon enactment of this section; are hereby withdrawn, subject to valid existing rights and Native selection rights under that Act as modified by this Act, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act and shall remain so withdrawn subject to the provisions of section 1203 of this Act. Following the filing with the Secretary of the Interior of (A) all resolutions pursuant to subparagraph (4) of this subsection, (B) the joint venture agreement referred to in subsection (c) of this section, (C) releases by such of the Koniag Village Corporations referred to in subsection (e)(2) of this section as file releases as provided in subsection (e)(1) of this section, and (D) all reconveyances of lands and interests in lands to the United States required by agreements with the Secretary of the Interior upon enactment of this section; and upon the conveyances by the Secretary of the Interior of all public lands on Afognak Island to be conveyed as provided in subsection (c) of this section, all Native selection rights in and to public lands on the Alaska Peninsula withdrawn under section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated, shall, except as provided in subsection (g) of this section, be extinguished and all claims thereto arising under this Act or the Alaska Native Claims Settlement Act shall be barred, and such public lands (except as provided in subsection (g) of this section) shall be included within the Alaska Peninsula National Wildlife Refuge and administered accordingly.

48 USC note prec. 21.
Ante, p. 2470.

43 USC 1610.

43 USC 1601 note.

(4) As a condition precedent to the conveyances provided for by subparagraph (1) of this subsection, Koniag, Incorporated, each Koniag Deficiency Village Corporation and each Koniag 12(b) Village

Corporation shall file with the Secretary of the Interior resolutions duly adopted by their respective boards of directors accepting the conveyances provided for in this subsection as being in full satisfaction of their respective entitlements to conveyances of Koniag 14(h)(8) lands on the Alaska Peninsula, of deficiency village acreage on the Alaska Peninsula and of 12(b) acreage on the Alaska Peninsula, and Koniag, Incorporated, shall further file with the Secretary of the Interior a resolution duly adopted by its board of directors accepting the provisions of subsection (1) of this section.

Afognak Island, recreational and commercial uses.

(5) The lands on Afognak Island required to be conveyed pursuant to paragraph (1) of this subsection shall remain open and available to sport hunting and fishing and other recreational uses by the public under applicable law (but without liability on the part of Koniag, Incorporated or any Koniag Village Corporation, except for willful acts, to any user by reason of such use), subject only to such reasonable restrictions which may be imposed by Koniag, Incorporated and the affected Koniag Village Corporations for the purposes of limiting or prohibiting such public uses in the immediate vicinity of logging or other commercial operations which may be undertaken by the corporations upon the affected lands. Such restrictions shall comprise only those restrictions necessary to insure public safety and to minimize conflicts between recreational and commercial uses. Koniag, Incorporated and the affected Koniag Village Corporations shall permit access to the lands on Afognak Island conveyed to them by employees of the State for purposes of managing fish and wildlife and by other State officers and employees, and employees of political subdivisions of the State, for the purposes of carrying out this subsection.

Cooperative agreements.

(6) To further accomplish the purposes of paragraph (5), Koniag, Incorporated and the Koniag Villages are authorized to enter into cooperative agreements regarding lands on Afognak Island with the Secretary of the Interior, the State of Alaska, and those political subdivisions of the State which desire to participate and which have jurisdiction over the portions of Afognak Island affected. Each such agreement shall—

(A) permit the Secretary of the Interior reasonable access to such land to carry out the obligations of the Secretary under the agreement;

(B) set forth those services which any other party agrees to provide, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(C) set forth such additional terms and conditions as the parties may agree to as being necessary and appropriate to carry out the terms of the agreement; and

(D) specify the effective period of the agreement.

Afognak Island, land conveyance.

(c) The Secretary of the Interior shall convey the surface estate on Afognak Island to be conveyed under subsection (b)(1) of this section to a joint venture providing for the development of the surface estate on Afognak Island to be conveyed under this subsection, consisting of the Koniag Deficiency Village Corporations, the Koniag 12(b) Village Corporations and Koniag, Incorporated (or wholly owned subsidiaries thereof), in which (1) the share of the Koniag Deficiency Village Corporations as a class in the costs and revenues of such joint venture is determined on the basis of a fraction, the numerator of which is the deficiency village acreage on the Alaska Peninsula and the denomi-

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nator is the sum of the deficiency village acreage on the Alaska Peninsula plus the 12(b) acreage on the Alaska Peninsula plus the Koniag 14(h) acreage on the Alaska Peninsula, which fraction shall be multiplied by the number of acres on Afognak Island to be conveyed by reason of subparagraph (b)(1) of this subsection; (2) the share of the Koniag 12(b) Village Corporations as a class is determined on the basis of a fraction, the numerator of which is the 12(b) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above, which fraction shall be multiplied by the number of acres on Afognak Island referred to (1) above; and (3) the share of Koniag, Incorporated is determined on the basis of a fraction, the numerator of which is the Koniag 14(h) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above which fraction shall be multiplied by the number of acres on Afognak Island to in (1) above. In such joint venture, each Koniag Deficiency Village Corporation shall participate in the share of the Koniag Deficiency Village Corporations as a class in the ratio that the entitlement of each to deficiency village acreage on the Alaska Peninsula bears to the total deficiency village acreage on the Alaska Peninsula and each Koniag 12(b) Village Corporation shall participate in the share of the Koniag 12(b) Village Corporations as a class in the ratio that the number of Natives enrolled under the Alaska Native Claims Settlement Act to the village that corporation represents bears to the number of Natives enrolled to all villages represented by Koniag 12(b) Village Corporations. The conveyance shall be made as soon as practicable after there has been filed with the Secretary of the Interior a duly executed joint venture agreement with provisions for sharing of and entitlements in costs and revenues of such venture as provided in this subsection. The conveyance shall not indicate the respective interests of each of the corporations in the surface estate conveyed but such interests shall be as provided in this subsection which shall be incorporated by reference into the conveyance. The subsurface estate in the foregoing lands shall be conveyed simultaneously to Koniag, Incorporated. Neither the joint venture, and Koniag Village Corporation having an interest in the joint venture or the lands conveyed thereto, nor Koniag, Incorporated shall take or permit any action which may be inimical to bear denning activities on the Tonki Caps Peninsula.

16 USC 1601 note.

Land conveyance.

(d) In the event the Ouzinkie Native Corporation and Koniag, Incorporated, within ninety days after the effective date of this Act, enter into an agreement to convey to the Kodiak Island Borough their respective rights, titles, and interests in and to the surface and subsurface estate respectively in the following described land:

Seward Meridian, Alaska

Township 27 south, range 20 west;

Sections 9 through 12 inclusive, all;

Sections 13, north half, excluding Monashka Bay; southwest quarter; north half southeast quarter, excluding Monashka Bay; southwest quarter south east quarter;

Sections 14, 15, and 16, all;

Sections 21 and 22, all;

Section 23, north half, north half southwest quarter, southwest quarter southwest quarter, northwest quarter southeast quarter;

Section 24, north half northwest quarter; and

Section 27, north half, southwest quarter, west half southeast quarter.

the Secretary of the Interior shall convey to Ouzinkie Native Corporation the surface estate and to Koniag, Incorporated the subsurface estate in the following described land on Afognak Island:

Seward Meridian, Alaska

Township 22 south, range 19 west;
Sections 6, 7, 15, all;
Section 18, west half;
Sections 19, 22, 28, all;
Sections 31 through 35 inclusive, all; and
Section [illegible] south half.

The agreement between Kodiak Island Borough, Ouzinkie Native Corporation and Koniag, Incorporated may contain the provisions agreed to by the parties including, but not limited, to easements across the lands to be conveyed to the Kodiak Island Borough.

Claims releases.

(e)(1) Each village listed in paragraph (2) of this subsection which, through the Koniag Village Corporation listed alongside it, files with the Secretary of the Interior, within sixty days from the effective date of this Act, a release duly authorized by its board of directors releasing, in consideration of the benefits provided for in this section, the United States, its officers, employees, and agents from all claims of the village and the Village Corporations to lands and interests therein arising under the Alaska Native Claims Settlement Act or compensation in any form therefor (except as provided in paragraph (3) of this subsection) along with a release by Koniag, Incorporated, duly authorized by its board of directors, releasing the United States, its officers, employees, and agents, from Koniag's claims to subsurface estate under the Alaska Native Claims Settlement Act arising out of the claims of such village or compensation in any form therefor (except as provided in paragraph (3) of this subsection) shall be deemed an eligible village under the Alaska Native Claims Settlement Act. This section shall be inoperative as to any such village which does not file such a release but shall be operative as to each of such villages which files such a release.

43 USC 1601 note.

(2) The villages and Koniag Village Corporations referred to in the foregoing paragraph are:

Anton Larsen Bay	Anton Larsen, Incorporated
Bells Flats	Bells Flats Natives, Incorporated
Uganik	Uganik Natives, Incorporated
Litnik	Litnik, Incorporated
Port William	Shuyak, Incorporated
Ayakulik	Ayakulik, Incorporated
Uyak	Uyak Natives, Incorporated

Land conveyance.

(3)(A) When Uyak Natives, Incorporated, Uganik Natives Incorporated, or Ayakulik, Incorporated (and Koniag, Incorporated in respect of such corporations) executes a release as provided for in paragraph (1) of this subsection, the Secretary of the Interior shall convey to each Village Corporation executing such release the

surface estate of the one square mile of land excluded from the Kodiak Island National Wildlife Refuge by Public Land Order Numbered 1634 on account of the village it represents. The Secretary of the Interior shall by reason of conveyance of surface estate to a Village Corporation under this paragraph (3) convey to Koniag, Incorporated the subsurface estate in such lands.

(B) Upon conveyance of each Koniag Village Corporation of that land described in subparagraph (A), such Village Corporation shall comply with the requirements of subsection (f) of this section, except that it shall be required to convey twenty acres to the State in trust for any Municipal Corporation established in the Native village in the future for community expansion and appropriate rights of way for public use, and other foreseeable community needs.

Revenue entitlement.

(4) There shall vest in the Native Village Corporation representing each village that files a release as provided for in subsection (e)(1) of this section the right to all revenues received by Koniag, Incorporated from the Alaska Native Fund which would have been distributed to it by Koniag, Incorporated under subsections (j) and (k) of section 7 of the Alaska Native Claims Settlement Act (subject to subsection (l) of section 7 of that Act) had such village been determined to be eligible at the time of such distributions, less amounts heretofore paid by Koniag, Incorporated under subsection (m) of section 7 of that Act to stockholders of such corporations as members of the class of at-large stockholders of Koniag, Incorporated. Each corporation representing a village that files a release as provided for in subsection (e)(1) of this section shall hereafter be entitled to share pro rata with all other Koniag Village Corporations in distributions of funds to Village Corporations made by Koniag, Incorporated out of funds hereafter received by Koniag, Incorporated from the Alaska Native Fund or from any other source and shall be eligible for all other rights and privileges to which Alaska Native Village Corporations are entitled under any applicable laws, except as limited by this subsection. Nothing in this paragraph shall prohibit Koniag, Incorporated from withholding out of funds otherwise due a Village Corporation that files a release as provided for in subsection (e)(1) of this section, such sums as may be required to reimburse Koniag, Incorporated for an equitable portion of expenses incurred by Koniag, Incorporated in connection with or arising out of the defense of or assertion of the eligibility of the village represented by such corporation for benefits under the Alaska Native Claims Settlement Act, including costs incident to land selection therefor.

43 USC 1606.

43 USC 1601 note.

(f) All conveyances made by reason of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances (including patents) had been made or issued pursuant to that Act.

(g) Nothing in this section shall be deemed to affect (1) section 15 of the Act of January 2, 1976 (Public Law 94-204) as amended by section 911 of this Act; (2) the right, subject to subsection (l) of this section, of Koniag, Incorporated to in lieu subsurface estate on the Alaska Peninsula under sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, less the acreage of such in lieu subsurface estate conveyed to Koniag, Incorporated under the provisions of law referred to in subdivision (1) of this subsection; or (3) the right under the Alaska Native Claims Settlement Act of Koniag, Incorporated, subject to subsection (l) of this section, to subsurface estate in and to the following described land:

43 USC 1611 note.
Ante, p. 2447.

43 USC 1611, 1613.

43 USC 1601 note.

Seward Meridian, Alaska

Township 37 south, range 48 west;
Section 9;
Sections 15 through 17 inclusive;
Sections 20 through 22 inclusive; and
Sections 28, 33;
Township 37 south, range 49 west;
Sections 21 through 23 inclusive;
Sections 26 through 28 inclusive; and
Sections 33 through 35 inclusive;
Township 38 south, range 48 west;
Sections 4 through 9 inclusive;
Township 38 south, range 49 west;
Sections 1 through 4 inclusive;
Sections 6 through 23 inclusive; and
Sections 26 through 34 inclusive;
Township 38 south, range 50 west;
Sections 1 through 3 inclusive;
Sections 10 through 12 inclusive;
Sections 13 through 15 inclusive;
Sections 22 through 26 inclusive; and
Sections 35, 36;
Township 39 south, range 49 west;
Sections 3 through 7 inclusive;
Sections 9 through 10 inclusive; and
Sections 18, 19, 30;
Township 38 south, range 50 west;
Sections 1, 2, 7, 8, 12, 13;
Sections 15 through 18 inclusive;
Sections 20 through 22 inclusive;
Sections 24 through 27 inclusive; and
Section 35.

(h) All public lands on Afognak Island, other than those lands referred to in subsections (b)(2) (A) and (B) of this section are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act as amended, and shall remain so withdrawn until and unless conveyed pursuant to this Act. Any such lands not conveyed under this section except those lands described in subsection (b)(2)(D), may be opened by the Secretary of the Interior to the extent he deems appropriate. Withdrawal. 48 USC note prec. 21.

(i) As additional consideration for the relinquishment by Koniag Village Corporations of rights to surface estate on the Alaska Peninsula and by Koniag, Incorporated of rights to surface and subsurface estate thereon as provided in subsection (b)(4) of this section, Koniag, Incorporated shall, solely for purpose of prospecting for, extraction and removal of subsurface resources retained by it under subsection (l) of this section on the Alaska Peninsula, have the same rights of access and use of surface estate, after consultation with the surface owner, as are now provided for in 50 CFR 29.32. Rights of access and use.

(j) The acreage to be allocated to Koniag, Incorporated under section 12(b) of the Alaska Native Claims Settlement Act shall be determined as though each village listed in subparagraph (e)(2) of this section had selected 69,120 acres under section 12(a) of the Alaska Native Claims Settlement Act. Acreages allotted to other regional corporations under section 12(b) of the Alaska Native Claims Settle- Acreage allocation. 43 USC 1611.

ment Act shall be determined on the basis of the acreages actually conveyed to such villages under this section or the Alaska Native Claims Settlement Act.

Timber resources.

43 USC 1606.

(k) Koniag, Incorporated's interest in the timber resources of the joint venture referred to in subsection (c) of this section, determined as therein provided, shall for purposes of section 7(i) of the Alaska Native Claims Settlement Act be deemed to be Koniag's timber resources. Koniag, Incorporated shall be entitled to deduct from its share of proceeds therefrom any and all expenses of the kind and nature which Regional Corporations are entitled to deduct from revenues from timber resources prior to the distributions required by said section 7(i).

Subsurface estate, conveyance.

43 USC 1611, 1613.

(l) In conveying subsurface estate to Koniag, Incorporated on the Alaska Peninsula, whether under subsection (g)(3) of this section or as in lieu subsurface estate as provided in sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall retain all minerals other than oil and gas and sand and gravel used in connection with prospecting for, extracting, storing or removing oil and gas: *Provided*, That removal of oil and gas and sand and gravel shall, after consultation with the surface owner, be accomplished as now provided in 50 CFR section 29.32. Koniag, Incorporated may in its discretion enter into agreements with the owner of the surface estate in such lands for the conveyance of the subsurface estate to the surface owner without compensation, but this provision shall not be construed to require such conveyances without Koniag, Incorporated's agreement.

Alaska Maritime National Wildlife Refuge. Kodiak National Wildlife Refuge.

(m) All public lands, including submerged lands, adjacent to and seaward of Afognak Island from the line of mean high tide to the exterior boundary of the former "Afognak Forest and Fish Culture Reserve", part of the existing Chugach National Forest, as reserved by proclamation dated December 24, 1892, and as shown on the diagram forming a part of the proclamation dated February 23, 1909, are hereby included within the Alaska Maritime National Wildlife Refuge and the lands described in subdivision (D) of subsection (b)(2) of this section are hereby included within the Kodiak National Wildlife Refuge: *Provided*, That notwithstanding the inclusion of Delphin and Discover Islands in the Alaska Maritime National Wildlife Refuge, the joint venture provided for in subsection (c) of this section shall be entitled to and there shall be conveyed to the joint venture in the conveyance provided for in subsection (c) hereof, the right to timber resources on such islands: *Provided*, That management and harvest of such timber resources shall be only in accordance with management plans jointly developed by the joint venture and the Secretary of the Interior.

Ante, p. 2496.

(n) Section 22(j)(2) of the Alaska Native Claims Settlement Act as amended by section 1410 shall not apply to Koniag, Incorporated or to any Koniag Village Corporation.

(o) Nothing in this section shall abrogate any existing Forest Service timber contract on Afognak Island or revoke existing cabin leases or term special use permits on Afognak Island.

CHUGACH VILLAGE CORPORATION LANDS

Land conveyance.

43 USC 1611.

SEC. 1428. (a) Notwithstanding the restrictions applicable to the Village Corporation selections under section 12(b) of the Alaska Native Claims Settlement Act imposed by section 12(a) of the Settlement Act, including but not limited to the sixty-nine thousand one hundred and twenty-acre conveyance limitation placed on land

selected by Village Corporations within the National Forest, National Wildlife Refuge System, or State selected lands, the Secretary shall convey under section 14(a) of the Alaska Native Claims Settlement Act from lands previously selected from lands withdrawn pursuant to section 11 of such Act in the Chugach National Forest by the Village Corporations created by the enrolled residents of the villages of Chenega, Eyak, and Tatitlek, those additional entitlement acreages which are reallocated to these corporations under section 12(b) of such Settlement Act by the Regional Corporation for the Chugach region.

43 USC 1613.
43 USC 1610.
43 USC 1611.

(b) Within ninety days after the enactment of this act, the three Village Corporations referred to in subsection (a) of this section shall file with the Secretary a list of those lands selected by each of them under section 12(b) from lands withdrawn pursuant to section 11 of the Settlement Act from within the Chugach National Forest, in the order of priority in which they wish to receive conveyance to such lands: *Provided, however,* That the village of Chenega shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act on the mainland in the area of Icy Bay and Whale Bay, as depicted on the map entitled "Areas not available for Chenega 12(b) conveyance", dated April 1979: *Provided further,* That the village of Eyak shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act in the area east of Mountain Slough and in the area more than a thousand feet south of the centerline of the Copper River Highway as depicted on the map entitled "Areas not available for Eyak 12(b) conveyance", dated April 1979.

Chugach National Forest Land selection.
43 USC 1611.
43 USC 1610.
43 USC 1611.

(c) The Board of Directors of Chugach Natives, Incorporated, shall, within ninety days after the enactment of this Act, file with the Secretary a resolution indicating the number of acres allocated to each of these Village Corporations under the Regional Corporation's existing sixty-four thousand four hundred-acre 12(b) allocation, and the basis on which future 12(b) allocations made by the Secretary, if any, are to be reallocated among the Village Corporations in the Chugach region.

Acreage allocation.

(d) The Secretary shall process the lands for conveyance in the priority listed, and subject to the requirements of the settlement act for selection, tract size, compactness, and contiguity, convey to the corporations such acreage to which they are entitled: *Provided, however,* That applicants for selection filed by the State of Alaska under section 6(a) of the Alaska Statehood Act, as amended, shall take precedence over such Chugach Village Corporation 12(b) selections within the Chugach National Forest, except in the area of Windy and Cedar Bays on Hawkins Islands, where applications for State selections in township 15 south, ranges 4 and 5 west of the Copper River Meridian, shall be subordinated to 12(b) selections filed by the Eyak Corporation; and except further in the area of Boswell Bay on Hinchenbrook Island, where State applications for selection in township 17 south, range 5 west of the Copper River meridian, except for those in sections 10 and 15 of said township, shall be subordinated to 12(b) selections filed by the Eyak Corporation. State applications for selection of any of the above-described lands which are not subordinated to Chugach village selections shall be adjudicated and approved or disapproved pursuant to section 6(a) of the Alaska Statehood Act: *Provided, however,* That any disapproval of such State selections shall not vest any selection right in any Chugach Village Corporation.

48 USC note prec. 21.

(e) Should the corporations fail to timely file the information required by subsections (b) and (c) of this section or if the priority listing submitted under subsection (b) does not meet the tract size, compactness, or contiguity requirements of the Settlement Act, the Secretary may provide the corporations thirty days from the date of notice to file the information to make the necessary corrections.

(f) If any Chugach Village Corporation voluntarily relinquishes any selection of lands within the boundaries of a conservation system unit, such lands shall be added to such unit and administered accordingly.

CHUGACH REGIONAL CORPORATION LANDS

SEC. 1429. (a) Subject to valid existing rights, within one hundred and eighty days after the enactment of this Act, Chugach Natives, Incorporated, shall be entitled to select public lands not reserved for purposes other than National Forests from within the Chugach Region under section 14(h)(8) of the Alaska Native Claims Settlement Act from within the boundaries of the Chugach National Forest. Chugach Natives, Incorporated, shall make no selection of lands within the areas identified on the maps entitled "Western Prince William Sound Areas Not Available for Chugach 14(h)(8) Selection" and "Copper River Delta Area Not Available for Chugach 14(h)(8) selection", both dated April 1979.

43 USC 1613.

Adjudication.

(b) The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, as though such lands were available for selection under such provision.

(c) The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations: *Provided, however,* That the corporation shall make no selection of lands, which overlap selection applications filed by the State of Alaska under section 6(a) of the Alaska Statehood Act as amended, on or before September 1, 1978, and that any disapproval of such selection applications shall not vest any selection right in Chugach Natives, Incorporated.

48 USC note prec. 21.

(d) If Chugach Natives, Incorporated, elects to select any or all of its lands to which it is entitled under section 14(h)(8) of the Settlement Act from lands within the Chugach National Forest made available pursuant to this authority, the following lands within the Carbon Mountain regional deficiency area shall be adjudicated as though they were timely filed by Chugach Natives, Incorporated, under section 12(c) of the Settlement Act, notwithstanding any prior relinquishment of 12(c) selections and subsequent selection of these lands by Chugach Natives, Incorporated, under section 14(h)(8) of the Settlement Act:

43 USC 1611.

43 USC 1613.

Township 16 south, range 9 east, sections 7 through 10, 16 through 31;

Township 19 south, range 9 east, sections 1 through 36;

Township 20 south, range 9 east, sections 1 through 36; and

Township 20 south, range 10 east, sections 5 through 8, 17 through 20, 29 through 32.

(e) If legislation is enacted or a proposal implemented pursuant to section 1430 of this Act, selections by the Chugach Natives, Incorporated, under this section shall also be subject to the provisions of such legislation or proposal.

Land conveyance processing.

(f) The Secretary shall process the lands for conveyance under this section subject to the requirements of the Settlement Act for selection, tract size, and compactness. These selections shall also be

subject to any requirements regarding contiguity which are agreed to as a result of the study established by section 1430.

CHUGACH REGION STUDY

SEC. 1430. (a) PARTICIPANTS; PURPOSES.—The Secretary of the Interior, the Secretary of Agriculture, and the Alaska Land Use Council, in conjunction with Chugach Natives, Incorporated, and the State of Alaska, if the State chooses to participate, are directed to study the land ownership and use patterns in the Chugach region. The objectives of the study are: to identify lands, pursuant to guidelines contained in section 1302(h) of this Act, and in section 22(f) of the Settlement Act, as amended, which can be made available for conveyance to Chugach Natives, Incorporated; for the purpose of consolidation of land ownership patterns in the Chugach region; to improve the boundaries of and identify new conservation system units; to obtain a fair and just land settlement for the Chugach people; and realization of the intent, purpose and promise of the Alaska Native Claims Settlement Act by the Chugach Natives, Incorporated. The study participants are directed to identify in-region and out-of-region lands, including lands within the Chugach National Forest and State lands but excluding lands in private ownership, which can be made available to Chugach Natives, Incorporated, in satisfaction of its regional land entitlement pursuant to section 12(c) of the Alaska Native Claims Settlement Act, to consider monetary payment in lieu of land and to consider all other options which the participants in the study consider to be appropriate to achieve the objectives set forth above.

43 USC 1601 note.

43 USC 1611.

(b) LANDS.—Lands identified to meet the study objectives outlined in subsection (a) shall be, to the maximum extent possible, lands of like kind and character to those traditionally used and occupied by the Chugach people and shall be, to the maximum extent possible, coastal accessible, and economically viable. The inclusion of lands within the areas designated as conservation system units or for wilderness study by this Act within the Chugach region shall not preclude the identification of those lands to meet the study objectives outlined in subsection (a).

(c) PROCEDURE.—The study participants shall hold at least three public hearings, at least one of which shall be in Anchorage and at least two of which shall be in the Chugach region. In conducting the study, the study participants shall seek review and comment from the public, including the residents of the Chugach region, and all meetings of the study participants shall be open to the public.

Public hearings.

(d) REPORT.—The study shall be completed and the President shall report to the Congress within one year of the date of enactment of this Act. He shall also transmit with the report any legislation necessary to implement the study recommendations.

Presidential report to Congress.

(e) DEADLINE.—If legislation is necessary to implement the recommendations of the study submitted by the President, then any selection deadlines for Chugach Natives, Incorporated, under section 12(c) of the Alaska Native Claims Settlement Act or section 14(h)(8) of such Act pursuant to section 1429 of this Act will be extended for one year following the date of enactment of the legislation enacted to implement the recommendations of the study submitted by the President.

43 USC 1611.
43 USC 1613.

(f)(1) LAND STATUS DURING STUDY.—Until Congress takes final action on any legislation transmitted by the President which is necessary to implement the study or until the recommendations of

48 USC note prec. 21.
Ante, p. 2430.

the study are implemented, whichever occurs first, all State selections filed after July 21, 1979 pursuant to section 6 of the Alaska Statehood Act or title 9 of this Act within the Chugach region shall be considered timely filed but shall not be adjudicated or conveyed except as provided in this section: *Provided*, That nothing in this section shall impede or be interpreted so as to restrict the adjudication and conveyance of State selections filed before September 1, 1978: State selections filed after July 21, 1979 within the Chugach region shall be subordinate to the results of the study as implemented or to legislation enacted to implement the study as to the land as affected and any such selection which is in conflict with the results of the study as implemented shall thereupon be denied.

(2) Except for lands within the areas designated as conservation system units or for wilderness study by this Act, the Secretary of the Interior is hereby authorized to withdraw, subject to valid existing rights, any Federal lands identified for possible selection and conveyance or exchange to Chugach in the proposed study report submitted by the President. The Secretary shall specify all forms of appropriation or disposal, if any, prohibited on such lands in such withdrawals, including but not limited to selections by the State of Alaska, appropriations under the mining laws; leasing under the mineral leasing laws or appropriations under any other public land laws. The consent of the head of any agency administering the land in the area to be withdrawn shall not be necessary prior to such withdrawal. Such withdrawal shall remain in force and effect for one year following the date of enactment of the legislation authorizing implementation of the recommendations in the study report signed by the President unless the Secretary shall earlier determine that the lands of any part thereof included in the withdrawal no longer need the protection of the withdrawal. If lands are selected by Chugach Natives, Incorporated, the withdrawals of the selected lands shall remain in force and effect until the selection is conveyed or finally rejected. The withdrawal and any modification, amendment or revocation thereof shall be published in the Federal Register and shall be effective on the date of publication in the Federal Register.

Publication in Federal Register.

(3) Prior to conveyance, any lands selected by Chugach Natives, Incorporated pursuant to the study or legislation implementing the study, shall be subject to administration by the Secretary of the Interior or by the Secretary of Agriculture in the case of national forest lands under applicable laws and regulations, and their authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal: *Provided, however*, That the Secretary shall not make any contract or grant any lease, permit, right-of-way or easement without prior consultation with Chugach Natives, Incorporated. Any lands irrevocably selected by Chugach Natives, Incorporated, shall not be subject to any contract, lease, permit, right-of-way or easement without the prior consent of Chugach Natives, Incorporated. However, the Secretary shall not be prohibited, if otherwise authorized, from issuing permits without prior consultation with Chugach Natives, Incorporated, or without the consent of Chugach Natives, Incorporated, on lands irrevocably selected by Chugach Natives, Incorporated, to the Prince William Sound Fisheries Management Council for aquaculture sites identified to the Secretary by the Prince William Sound Fisheries Management Council and Chugach Natives, Incorporated, within thirty days after the enactment of this Act.

(4) Lands withdrawn pursuant to this section shall not be construed to be "lands held for the benefit of Indians, Aleuts, and Eskimos"

pursuant to section 103(c)(2) of Public Law 94-579 (43 U.S.C. 1702 (1976)).

(5) All lands withdrawn under this subsection shall be subject to section 2 of Public Law 94-204 (43 U.S.C. 1613). 43 USC 1613 note.

(g) INTERIM MANAGEMENT.—Until Congress takes final action on any legislation transmitted by the President pursuant to this section or until lands agreed to by the participants in the study are conveyed, whichever comes first, the Secretary of the Interior and the Secretary of Agriculture shall manage lands under their control in the Chugach region in close consultation with Chugach Natives, Incorporated, and, to the maximum extent possible, in such a manner so as not to adversely affect or preclude any option which the participants in the study may consider.

(h) RELINQUISHED AREAS.—Any lands within the exterior boundaries of a conservation system unit or a national forest previously selected by Chugach Natives, Incorporated, but relinquished by Chugach Natives, Incorporated, shall, upon receipt of any such relinquishment become a part of the unit and administered accordingly.

(i) CONVEYANCE OF EXISTING SELECTIONS.—Prior to the enactment of new legislation to implement the recommendations of the study, nothing in this section shall be construed to prevent Chugach Natives, Incorporated, from notifying the Secretary of its desire to receive conveyance of lands previously selected or the power of the Secretary to adjudicate such selections and to convey those lands properly selected.

ARCTIC SLOPE REGIONAL CORPORATION LANDS

SEC. 1431 (a) PURPOSES; REFERENCE DOCUMENT.—In order to further the purposes of:

(1) satisfying land entitlements in the Arctic Slope Region;

(2) consolidating and exchanging land holdings for the mutual benefit of the United States and the Native Corporations within the Arctic Slope region; and

(3) providing for oil and gas operations in the Kuparuk Lake area, consistent with environmental protection;

Congress enacts this section. The specific terms, conditions, procedures, covenants, reservations and other restrictions set forth in the document entitled "Terms and Conditions for Land Exchanges and Resolution of Conveyancing Issues in Arctic Slope Region, Between the Department of the Interior and Arctic Slope Regional Corporation" (hereafter in this section referred to as "Terms and Conditions"), which was executed on June 29, 1979, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, are hereby incorporated in this section, and are ratified, as to the duties and obligations of the United States and the Arctic Slope Regional Corporation, as a matter of Federal law.

(b) TRANSFER TO THE UNITED STATES.—The Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Fairbanks Meridian

Township 34 north, range 21 west, sections 4 through 9, 16 through 18;

Township 34 north, range 22 west, sections 1 through 6, 11 through 14;
Township 35 north, range 20 west, sections 1 through 24;
Township 35 north, range 21 west, sections 1 through 4, 9 through 16, 21 through 24, 28 through 33;
Township 35 north, range 22 west, sections 1 through 12, 17 through 20, 27 through 34;
Township 35 north, range 23 west, sections 1 through 3, 10 through 17, 20 through 24, 28, 29, 32, 33;
Township 36 north, range 21 west, sections 1 through 4, 9 through 20, 23 through 26, 29 through 32, 35, 36;
Township 36 north, range 22 west, sections 5 through 8, 25 through 36;
Township 36 north, range 23 west, sections 1, 5 through 8, 12 through 30, 34 through 36;
Township 36 north, range 24 west, sections 1 through 3, 10 through 12;
Township 37 north, range 21 west, sections 25 through 36;
Township 37 north, range 22 west, sections 25 through 36;

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30;
Township 12 south, range 12 west, sections 13 through 16, 21 through 28;
Township 17 south, range 2 west, partial, sections 3 through 6; and
Township 17 south, range 3 west, partial, sections 1 through 4.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

(c) LAND EXCHANGE.—As a land exchange, contingent upon Arctic Slope Regional Corporation's relinquishment of lands described in subsection (b) and upon conveyance of lands described in paragraph (4) below, and subject to valid existing rights, (1) the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands, subject to valid existing rights and to the terms, conditions, procedures, covenants, reservations, and restrictions specified in the "Terms and Conditions":

Umiat Meridian

Township 13 south, range 4 east, sections 1 through 36;
Township 14 south, range 3 east, sections 9 through 16, 21 through 28, 32 through 36;
Township 15 south, range 3 east, sections 25 through 30, 33 through 36;
Township 15 south, range 4 east, sections 6, 7, 18 through 36; and
Township 16 south, range 3 east, sections 1 through 3, 6, 7, 9 through 16, 18 through 30.

(2) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands subject to the terms,

conditions, procedures, covenants, reservations and restrictions specified in the "Terms and Conditions":

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30; and
Township 12 south, range 12 west, sections 13 through 16, 21 through 28.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

The Secretary shall except and reserve access easements for park-related purposes from Kurupa Lake to federally owned lands within Gates of the Arctic National Park limited to: The right to land and store aircraft at Kurupa Lake, the right to ingress and egress from the Lake along specific corridors leading to federally owned lands in Gates of the Arctic National Park and the right to camp overnight at the lakeshore and along the specific easement corridors. The conveyance shall be subject to the following covenants: The requirement for a plan of oil and gas operations prior to any exploration or development activities, the authority of the Secretary to modify or revoke any plan of operations for oil and gas exploration which does not utilize available technologies least damaging to the resources of the Kurupa Lake area and surrounding Federal lands and the authority of the Secretary to require good faith consultations to develop a plan of operations for oil and gas development which utilizes available technologies minimizing damage to the resources of the Kurupa Lake area and surrounding Federal lands. Such exceptions, reservations, and covenants shall be binding on Arctic Slope Regional Corporation, its successors and assigns.

(3) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States, except sand and gravel, in the subsurface estate of the following described lands, subject to the terms, conditions, procedure, covenants, reservations, and restrictions specified in the "Terms and Conditions".

Umiat Meridian

Township 12 south, range 9 east, sections 1 through 31;
Township 12 south, range 10 east, sections 1 through 18;

(4) The Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 13 south, range 1 west, sections 31 through 36;
Township 13 south, range 1 east, sections 31 through 36;
Township 14 south, range 2 east, sections 6, 7, 18, 19, 30, 31;
Township 14 south, range 4 east, sections 1 through 3, 10 through 15, 22 through 27, 33 through 36;
Township 15 south, range 1 west, sections 1 through 6, 11, 12, 19, 20, 27 through 34;
Township 15 south, range 1 east, sections 5 through 8, 17 through 20;
Township 16 south, range 2 east, sections 13 through 15, 22 through 27, 34 through 36;

Township 16 south, range 4 east, sections 1 through 4, 9 through 16, 19 through 36;
Township 17 south, range 1 west, sections 1, 2, 5, 6, partial;
Township 17 south, range 1 east, partial;
Township 17 south, range 3 east, partial;
Township 16 south, range 2 west, sections 19 through 36;
Township 16 south, range 3 west, sections 19 through 28, 33 through 36;
Township 15 south, range 4 west, sections 2 through 4, 9 through 11, 14 through 16, 19 through 23, 26 through 32; and
Township 16 south, range 4 west, sections 5 through 8, 17 through 24.

(d) TRANSFERS TO NATIVE CORPORATION.—The Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands selected or identified for selection pursuant to the Alaska Native Claims Settlement Act, and to the extent such lands lie outside the boundaries of the National Petroleum Reserve in Alaska:

Umiat Meridian

Township 3 south, range 6 west, sections 24 through 26, 33 through 36;
Township 4 south, range 6 west, sections 1 through 5, 7 through 36;
Township 4 south, range 7 west, sections 11 through 16, 19 through 36;
Township 4 south, range 8 west, sections 23 through 29, 32 through 36;
Township 5 south, range 6 west, sections 1 through 18;
Township 5 south, range 7 west, sections 1 through 36;
Township 5 south, range 8 west, sections 1 through 5, 7 through 36;
Township 5 south, range 9 west, sections 25 through 27, 34 through 36;
Township 6 south, range 6 west, sections 19, 30, 31;
Township 6 south, range 7 west, sections 1 through 18, 22 through 27, 34 through 36;
Township 7 south, range 6 west, sections 5 through 8, 17 through 20, 29 through 32;
Township 7 south, range 7 west, sections 1, 2, 11 through 14, 19 through 36;
Township 7 south, range 8 west, sections 19 through 36;
Township 7 south, range 9 west, sections 22 through 27, 34 through 36;
Township 8 south, range 6 west, sections 4 through 9, 16 through 36;
Township 8 south, range 7 west, sections 1 through 36;
Township 8 south, range 8 west, sections 1 through 18, 22 through 27, 34 through 36;
Township 9 south, range 6 west, sections 1 through 36;
Township 9 south, range 7 west, sections 1 through 36;
Township 9 south, range 8 west, sections 1 through 36;
Township 10 south, range 5 west, sections 19 through 36;
Township 10 south, range 6 west, sections 1 through 36;
Township 10 south, range 7 west, sections 1 through 36;
Township 10 south, range 8 west, sections 1 through 36;
Township 10 south, range 9 west, sections 19 through 36;

Township 10 south, range 10 west, sections 19 through 36;
Township 11 south, range 5 west, sections 1 through 18;
Township 11 south, range 6 west, sections 1 through 18;
Township 11 south, range 7 west, sections 1 through 21, 28 through 33;
Township 11 south, range 8 west, sections 1 through 36;
Township 11 south, range 9 west, sections 1 through 36;
Township 11 south, range 10 west, sections 1 through 36;
Township 11 south, range 11 west, sections 1 through 36;
Township 11 south, range 12 west, sections 1 through 36;
Township 11 south, range 13 west, sections 1 through 36;
Township 12 south, range 8 west, partial, sections 1 through 24;
Township 12 south, range 9 west, partial, sections 1 through 24;
Township 12 south, range 10 west, partial, sections 1 through 24;
Township 12 south, range 11 west, sections 1 through 16, 21 through 28;
Township 12 south, range 12 west, sections 1 through 12, 17 through 20, 29, 30;
Township 12 south, range 13 west, sections 1 through 30;

Kateel River Meridian

Township 34 north, range 16 east, sections 7 through 24;
Township 34 north, range 17 east, sections 7 through 24; and
Township 34 north, range 18 east, sections 7, 8, 17 through 20.

(e) ACQUISITION AND EXCHANGE AUTHORITY.—(1) The Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase or exchange any of the following described lands which have been or may hereafter be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c)(2) of this section or pursuant to the Alaska Native Claims Settlement Act: 43 USC 1601 note.

Umiat Meridian

Township 12 south, range 8 east, sections 1 through 36;
Township 12 south, range 7 east, sections 7 through 36;
Township 12 south, range 6 east, sections 10 through 15, 22 through 27, 34 through 36;
Township 13 south, range 7 east, sections 1 through 18;
Township 13 south, range 6 east, sections 1 through 18;
Township 12 south, range 11 west, sections 17 through 20, 29, 30; and
Township 12 south, range 12 west, sections 13 through 16, 21 through 28.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

(2) Lands specified in paragraph (1) of this subsection may be acquired for such purposes only with the consent of Arctic Slope Regional Corporation. If such lands are so acquired by the Secretary, or if any such lands are not conveyed to Arctic Slope Regional Corporation, such lands shall become, and be administered as, a part of Gates of the Arctic National Park; the boundaries of the Park shall thereby be deemed to include such lands to the same extent as if the lands were included within such boundaries by this Act: *Provided*, That no such boundary change shall take effect until ninety days after the Secretary provides notice in writing to the Congress of his Boundary change, notification of Congress.

intention to consummate an acquisition that would result in such boundary change.

(3) To facilitate an exchange provided for in this subsection, the Secretary is authorized to make available to Arctic Slope Regional Corporation lands, or interests therein, from public lands within the Arctic Slope Region, as determined pursuant to section 7(a) of the Alaska Native Claims Settlement Act, including lands, or interests therein, within the National Petroleum Reserve—Alaska in the event that lands within the reserve are made subject to leasing under the Mineral Leasing Act of 1920, as amended, or are otherwise made available for purposes of development of oil, gas, or other minerals.

43 USC 1606.

30 USC 181 note.

(f) LAND EXCHANGE.—As a land exchange:

(1) contingent upon Arctic Slope Regional Corporation conveying the lands described in paragraph (2) below and upon receiving interim conveyances to the following described lands:

Umiat Meridian

Township 9 south, range 2 west, sections 22 through 27, 34 through 36;

Township 9 south, range 3 west, sections 1 through 3, 10 through 12;

Township 9 south, range 12 west, sections 1 through 18; and

Township 9 south, range 13 west, sections 1 through 3, 10 through 15, 22 through 24.

the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands:

Umiat Meridian

Township 9 south, range 12 west, sections 19 through 24;

Township 9 south, range 11 west, sections 4 through 9, 16 through 21;

Township 9 south, range 3 west, sections 13 through 15, 22 through 27; and

Township 9 south, range 2 west, sections 28, 33.

(2) the Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 8 south, range 11 west, sections 13 through 15, 22 through 27; and

Township 8 south, range 10 west, sections 7 through 11, 13 through 21, 28 through 33.

(g) KAKTOVIK EXCHANGE.—As a land exchange, contingent upon Kaktovik Inupiat Corporation conveying the lands described in paragraph (1) of this subsection and upon the Arctic Slope Regional Corporation conveying the lands described in paragraph (4) of this subsection—

(1) the Secretary is authorized to accept from Kaktovik Inupiat Corporation all right, title and interest of Kaktovik Inupiat Corporation in the surface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36; and

Township 2 south, range 24 east, sections 1 through 24, 29 through 32.

(2) the Secretary shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

All those lands on Kaktovik Island—Barter Island Group, Alaska, which were not properly selected by Kaktovik Inupiat Corporation on or before December 18, 1975, and which were not on January 1, 1979, in a defense withdrawal: *Provided*, That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22(g) of said Act, except that the acreage limitation for Village Corporation selection of lands within the National Wildlife Refuge System shall not apply; 43 USC 1601 note, 1621.

(3) Kaktovik Inupiat Corporation shall identify additional lands it desires to acquire pursuant to this exchange from within the following described lands, and to the extent necessary to acquire the surface estate of an aggregate total of twenty-three thousand and forty acres, including the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g)(2) hereof:

Umiat Meridian

Township 7 north, ranges 32 through 36 east;

Township 8 north, ranges 32 through 36 east; and

Township 9 north, ranges 33 through 34 east;

or such other adjacent lands as the Secretary and Kaktovik Inupiat Corporation may mutually agree upon. Upon the concurrence of the Secretary in the lands identified, he shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the lands so identified: *Provided*, That such lands shall be contiguous to lands previously conveyed to Kaktovik Inupiat Corporation pursuant to section 14(a) of the Alaska Native Claims Settlement Act: *Provided further*, That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22(g) of said Act, except that the acreage limitation for Village Corporation selection of lands within the National Wildlife Refuge System shall not apply; 43 USC 1613.

(4) the Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title and interest of Arctic Slope Regional Corporation in the subsurface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36; and

Township 2 south, range 24 east, sections 1 through 24, 29 through 32.

(h) WEYUK LANDS TRANSFER.—Upon the concurrence of the Secretary of Defense, the Secretary shall convey to Arctic Slope Regional

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Corporation all right, title and interest of the United States in all or part of the following described lands:

Beginning at Weyuk, United States Coast and Geodetic Survey Survey Mark (1586) north 62 degrees east 2,900 feet, more or less, the true point of beginning of this description, thence north 1,100 feet, more or less, thence easterly, meandering along the coast approximately 2,000 feet, more or less, thence south 700 feet, more or less, thence west 1,800 feet, more or less, to the true point of beginning.

(i) NAVAL ARCTIC RESEARCH LABORATORY.—The Secretary shall convey to Ukpeagvik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

Umiat Meridian

Township 23 north, range 18 west, sections 13 fractional excluding interim conveyance numbered 045, 14 excluding northwest quarter; southwest quarter; west half southeast quarter, 23 excluding northwest quarter; west half northeast quarter; southwest quarter, southeast quarter, 24 excluding east half, southwest quarter and interim conveyance numbered 045, 28 excluding northeast quarter; southeast quarter, 29 fractional, 32 fractional, excluding United States Survey 4615, United States Survey 1432, and interim conveyance numbered 045, 33 excluding northeast quarter; east half east half northwest quarter; northeast quarter southeast quarter; northeast quarter northwest quarter southeast quarter and interim conveyance numbered 045.

(j) RIGHTS-OF-WAY, ETC.—(1) In recognition that Arctic Slope Regional Corporation has a potential need for access in an easterly direction from its landholdings in the Kurupa Lake area and the watershed of the Killik River to the Trans-Alaska Pipeline corridor, the Secretary is authorized and directed, upon application by Arctic Slope Regional Corporation for a right-of-way in this region, to grant to such corporation, its successors and assigns, according to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended, a right-of-way across the following public lands, or such other public lands as the Secretary and Arctic Slope Regional Corporation may mutually agree upon, for oil and gas pipelines, related transportation facilities and such other facilities as are necessary for the construction, operation and maintenance of such pipelines:

30 USC 185.

Umiat Meridian

Township 11 south, range 10 west;
Township 10 south, ranges 8 through 10 west;
Township 10 south, range 7 west, sections 19 through 36;
Township 11 south, range 7 west, sections 1 through 18;
Township 11 south, range 6 west;
Township 11 south, range 5 west, sections 1 through 18;
Township 10 south, range 5 west, sections 19 through 36;
Township 10 south, ranges 1 through 4 west; and
Township 10 south, ranges 1 through 10 east.

The final alignment and location of all facilities across public lands shall be in the discretion of the Secretary.

(2) The Secretary shall make available to Arctic Slope Regional Corporation, its successors and assigns, such sand and gravel as is reasonably necessary for the construction or maintenance of any pipeline or facility and use of rights-of-way appurtenant to the exercise of the rights granted under this subsection, such sand and gravel to be provided to Arctic Slope Regional Corporation, its successors and assigns, for fair market value by negotiated sale.

(k) NEPA.—The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of any environmental document for any action taken by the Secretary or the Secretary of Defense pursuant to this section. 42 USC 4321 note.

(l) SURFACE USES, ETC.—(1) With respect to the following described lands, the subsurface estate of which is to be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c) hereof:

Umiat Meridian

Township 12 south, range 9 east, sections 1 through 31; and
Township 12 south, range 10 east, sections 1 through 18.

Arctic Slope Regional Corporation shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and removal of oil and gas from said subsurface estate, subject to such rules and regulations by the Secretary that are applicable to the National Park System.

(2) The Secretary shall identify for Arctic Slope Regional Corporation, its successors and assigns, reasonably available sand and gravel which may be used without cost to the United States in the construction and maintenance of facilities and use of rights-of-way appurtenant to the exercise of the rights conveyed under this subsection, notwithstanding the provisions of section 601 et seq., title 30, United States Code, and sand and gravel shall be made available at no charge to Arctic Slope Regional Corporation.

(m) RELATION TO ENTITLEMENTS.—(1) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (c)(4) of this section. 43 USC 1611.

(2) The Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsections (c)(1), (c)(2), (d), (f)(1) and (h) of this section.

(3) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (g)(4) of this section.

(4) Notwithstanding the exception by the United States of sand and gravel, the Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsection (c)(3) of this section.

(5) The Secretary shall reduce the acreage charged against the entitlement of Kaktovik Inupiat Corporation pursuant to section

43 USC 1611.

12(a) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Kaktovik Inupiat Corporation to the United States pursuant to subsection (g)(1) of this section.

(6) The Secretary shall charge against the entitlement of Kaktovik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g) (2) and (3) of this section.

(7) The Secretary shall charge against the entitlement of Ukpeagvik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Ukpeagvik Inupiat Corporation pursuant to subsection (i) of this section.

(8) In no event shall the conveyances issued by the Secretary to Arctic Slope Regional Corporation, Kaktovik Inupiat Corporation, and Ukpeagvik Inupiat Corporation pursuant to the Alaska Native Claims Settlement Act and this section exceed the total entitlements of such Corporations under the Alaska Native Claims Settlement Act, except as expressly provided for in subsection (g) of this section.

43 USC 1601 note.

(n) RESERVED LANDS.—(1) Congress finds that it is in the public interest to reserve in public ownership the submerged lands in the bed of the Colville River adjacent to lands selected by Kuupik Corporation and in the beds of the Nechelik Channel, Kupigruck Channel, Elaktoveach Channels, Tamayayak Channel, and Sakoonang Channel from the Colville River to the Arctic Ocean, and (2) notwithstanding any other provision of law, conveyance of the surface estate of lands selected by Kuukpik Corporation pursuant to section 12 (a) and (b) of the Alaska Native Claims Settlement Act and associated conveyance of the subsurface estate to Arctic Slope Regional Corporation pursuant to section 14(f) of such Act shall not include conveyance of the beds of the Colville River and of the channels named in this subsection, and the acreage represented by the beds of such river and of such named channels shall not be charged against the land entitlement of Kuukpik Corporation and Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act.

43 USC 1613.

(o) FUTURE OPTION TO EXCHANGE, ETC.—(1) Whenever, at any time within forty years after the date of enactment of this Act, public lands in the National Petroleum Reserve—Alaska or in the Arctic National Wildlife Range, within seventy-five miles of lands selected by a Village Corporation pursuant to the provisions of section 12(a)(1) of the Alaska Native Claims Settlement Act, are opened for purposes of commercial development (rather than exploration) of oil or gas, Arctic Slope Regional Corporation shall be entitled, at its option, within five years of the date of such opening, to consolidate lands by exchanging the in-lieu subsurface lands which it selected pursuant to the provisions of section 12(a)(1) of the Act for an equal acreage of the subsurface estate, identified by Arctic Slope Regional Corporation, beneath the lands selected by the Village Corporation. Prior to the exercise of such option, Arctic Slope Regional Corporation shall obtain the concurrence of the affected Village Corporation. The subsurface estate identified for receipt by Arctic Slope Regional Corporation pursuant to this subsection shall be contiguous and in reasonably compact tracts, except as separated by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than five thousand seven hundred and sixty acres.

43 USC 1611.

(2) Arctic Slope Regional Corporation shall not be entitled to exchange, pursuant to the provisions of paragraph (1) of this subsection, any in-lieu subsurface estate which the corporation has developed for purposes of commercial extraction of subsurface resources; unless the Secretary determines such an exchange to be in the national interest.

(3) The Secretary shall take such steps as may be necessary to effectuate an exchange sought by Arctic Slope Regional Corporation in accordance with the provisions of paragraph (1).

(4) With regard to subsurface estates acquired by Arctic Slope Regional Corporation pursuant to this subsection, the Secretary may promulgate such regulations as may be necessary to protect the environmental values of the Reserve or Range and consistent with the regulations governing the development of those lands within the Reserve or Range which have been opened for purposes of development, including, but not limited to, regulations issued pursuant to section 22(g) of the Alaska Native Claims Settlement Act. 43 USC 1621.

(p) CONDITIONS.—All lands or interests in lands conveyed by the Secretary in subsections (d), (f)(1), (g)(2), (g)(3), (h), and (i) of this section to Arctic Slope Regional Corporation or a Village Corporation, as the case may be, shall be subject to valid existing rights, and in accordance with, and subject to, the provisions of the Alaska Native Claims Settlement Act, as amended, as though the lands were originally conveyed to such corporation under the provisions of such Act. 43 USC 1601 note.

COOK INLET VILLAGE SETTLEMENT

SEC. 1432. The Secretary is directed to:

(a) Terminate the review of the eligibility of Salamatof Native Association, Incorporated and withdraw any determination that said village corporation is not eligible for benefits under section 14(a) of this Act.

(b) Implement the agreement among the Secretary, Cook Inlet Region, Incorporated and Salamatof Native Association, Incorporated, which agreement dated August 17, 1979, had been filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, the terms of which are hereby authorized.

(c) Remove from the Kenai National Moose Range the surface estate of any land, therein to be conveyed to Salamatof and the subsurface estate of any lands therein conveyed or to be conveyed to Cook Inlet Region, Incorporated, pursuant to the agreement authorized to be implemented under subparagraph (ii) of this paragraph.

(d) Implement an agreement among Cook Inlet Region, Incorporated, the corporation representing the Village of Alexander Creek, the corporation representing the group of Alexander Creek and the United States, if such agreement is filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives prior to December 18, 1979, the terms of which are hereby authorized, and upon performance of the conditions precedent set forth in said agreement, certify Alexander Creek, Incorporated, as a group corporation, eligible for land and other benefits under the Alaska Native Claims Settlement Act and this Act.

(e) Treat lands conveyed to Alexander Creek as lands conveyed to Village Corporations for the limited purpose of calculating the acreage to be charged against the entitlement of Cook Inlet Region under section 4 of Public Law 94-456. 43 USC 1611 note.

(f) Accept any lands that are tendered by the State of Alaska for the purpose of implementing the agreement described in subparagraph (i) of this paragraph, such tender not to be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

43 USC note prec. 21.

BRISTOL BAY NATIVE CORPORATION LANDS

SEC. 1433. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14 (h)(8) of the Alaska Native Claims Settlement Act and this section:

43 USC 1613.

Seward Meridian

Township 14 south, range 56 west, sections 6, 7, 18, 19, and 30.

(b) On or prior to one hundred and eighty days from the date of enactment of this Act, Bristol Bay Native Corporation may select pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (a).

(c) The Secretary shall convey to Bristol Bay Native Corporation the surface and subsurface estate of the acreage selected by it Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bristol Bay Native Corporation, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not conveyed to Bristol Bay Native Corporation, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act, subsection 204(e) of the Federal Land Policy and Management Act, and the provisions of section 906(k) of this Act.

43 USC 1616.
43 USC 1714.
Ante, p. 2437.

SHEE ATIKA-CHARCOAL AND ALICE ISLAND CONVEYANCE

SEC. 1434. In partial satisfaction of the rights of Shee Atika, Incorporated, under section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall convey to Shee Atika, Incorporated, subject to reservation of easements as provided in section 17(b)(3) of that Act, the surface estate, and to Sealaska Corporation the subsurface estate, in and to the land owned by the United States in section 1, township 56 S, range 63 E, Copper River meridian, comprising Charcoal and Alice Islands, excluding, however, the land therein occupied under Federal permit by the Mount Edgecombe Grade School, the lands comprising the Mausoleum of the United States Public Health Service, as designated by that Service, and the lands comprising the maintenance and warehouse buildings of the Bureau of Indian Affairs, Department of the Interior, as designated by the Bureau of Indian Affairs, and approximately 1.5 acres, heretofore declared excess to the needs of the United States Public Health Service and transferred to the General Services Administration. Shee Atika, Incorporated, shall designate from the land heretofore selected by or conveyed to it pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act, a block of land equal in acreage to the lands to be conveyed to it under this provision, and all claims and rights of Shee Atika, Incorporated, in and to the surface estate, and all claims and rights of Sealaska Corporation, in

43 USC 1613.

and to the subsurface estate of such designated lands shall be deemed extinguished.

AMENDMENT TO PUBLIC LAW 94-204

Cook Inlet Region, Inc., surplus property. 43 USC 1611 note.

SEC. 1435. Section 12(b) of the Act of January 2, 1976 (Public Law 94-204), as amended by section 4 of the Act of October 4, 1978 (Public Law 94-456) and section 3 of the Act of November 15, 1977 (Public Law 95-178) is hereby amended to add the following new paragraphs:

"12(b)(7)(i) Until the obligations of the Secretary and the Administrator of General Services under subsection 12(b)(6) of this Act are otherwise fulfilled: (a) Cook Inlet Region, Incorporated, may, by crediting the account established in subsection 12(b)(7)(ii), bid, as any other bidder for surplus property, wherever located, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended. No preference right of any type will be offered to Cook Inlet Region Incorporated, for bidding for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(e)(2) of the Federal Property and Administrative Services Act; (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to 40 U.S.C. 484(e)(3) to be offered Cook Inlet Region, Incorporated for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act: *Provided*, That nothing in this subsection 12(b)(7)(i)(b) shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. If the Region accepts such property, it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document, referred to in subsection (b) of this section. Prior to any disposition under subsection 12(b)(7)(i)(b), the Administrator shall notify the governing body of the locality where such property is located and any appropriate State agency, and no such disposition shall be made if such governing body or State agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

43 USC 1601 note.

"(ii) The Secretary of the Treasury shall establish a Cook Inlet Region, Incorporated surplus property account, which shall be available for the purpose of bidding on Federal surplus property. The balance of the account shall be the acre-equivalent exchange value established by paragraph I(C)(2)(e) of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Incorporated, the effective date of this subsection to acre or acre-equivalents under paragraph I(C)(2)(g) of the document referred to in this subsection and shall be adjusted to reflect transfers or successful bids under subsection 12(b)(6) of this section.

"(iii) The amount charged against the Treasury account established under subsection (ii) shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to 40 U.S.C. 485(b), as amended.

"(iv) The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Incorporated, under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e)

of the document referred to in subsection (b) of this section shall be prima facie evidence of such fair value.

Report to Congress.

"12(b)(5) Cook Inlet Region, Incorporated, the Secretary and/or the Administrator shall have until July 15, 1982, to complete the nomination of lands for the pool described in subsection 12(b)(6): *Provided, however*, That the Secretary shall report to Congress on January 15, 1982, as to:

"(i) Such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, within the exterior boundaries of the Cook Inlet Region, or elsewhere can be made available to the Cook Inlet Region, Incorporated, to the extent of its entitlement;

"(ii) The feasibility and appropriate nature of reimbursement to Cook Inlet Region, Incorporated, for its unfulfilled entitlement as valued in paragraph I(C)(2)(e) of the document referred to in this subsection;

"(iii) The extent to which implementation to the mechanisms established in subsection 12(b)(7) promise to meet said unfulfilled commitment; and

"(iv) Such other remedial legislation on administrative action as may be needed.

INALIK NATIVE CORPORATION LANDS

SEC. 1436. (a) Upon the filing of a valid relinquishment by the State of Alaska of its selections of the following described lands, said lands are hereby withdrawn, subject to valid existing rights for a period of one year for selection by the Inalik Native Corporation:

Kateel River Meridian

Township 1 south, range 41 west;
Township 1 south, range 42 west; and
Township 1 south, range 43 west.

(b) The Inalik Native Corporation is authorized to select the lands described in subsection (a) in partial satisfaction of its entitlement under section 14 of the Alaska Native Claims Settlement Act. The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12 of the Alaska Native Claims Settlement Act, and shall convey said lands to the Inalik Native Corporation and the Bering Straits Native Corporation pursuant to section 14 of the Alaska Native Claims Settlement Act.

43 USC 1613.

43 USC 1611.

(c) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of the Inalik Native Corporation and Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

CONVEYANCES TO VILLAGE CORPORATIONS

43 USC 1641.

SEC. 1437. (a) OPTIONAL PROCEDURE.—The provisions of this section shall be applicable only to the conveyance of Federal lands described herein to a Native Corporation which within one hundred and eighty days after the date of enactment of this Act or the date of eligibility determination, whichever is later, files a document with the Secretary setting forth its election to receive conveyance pursuant to this section.

(b) "Core" Townships Etc.—(1)(A) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), 14(b), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the public lands, as defined in such Act, in the township or townships withdrawn pursuant to section 11(a)(1) or 16(a) of such Act in which all or any part of such Village is located. As used in this paragraph the term "Native Village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

Surface estate conveyances.
43 USC 1611, 1613, 1621.
Ante, p. 2437.
43 USC 1609, 1615.
43 USC 1602.

(B) Where two or more Village Corporations are entitled to the same land by virtue of the same township or townships embracing all or part of the Native Villages, the conveyance made by paragraph (A) shall not be effective as to such lands until an arbitration decision or other binding agreement between or among the Corporations is filed with and published by the Secretary. Within thirty days of receipt of such decision or agreement, the Secretary shall publish notice of the decision or agreement in the Federal Register. Effective with such publication, title to the lands conveyed by subparagraph (A) shall vest in the Village Corporation as specified in the decision or agreement. For purposes of section 902, until title vests in the Village Corporation pursuant to this subparagraph, the Secretary shall consider the entire acreage involved chargeable to each Corporation's entitlement.

Publication in Federal Register.

(2) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 of such Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(2) of such Act in which all or any part of such village is located: *Provided*, That any such land reserved to or selected by the State of Alaska under the Acts of March 4, 1915 (38 Stat. 1214), as amended, January 21, 1929 (45 Stat. 1091), as amended, or July 28, 1956 (70 Stat. 709), and lands selected by the State which have been tentatively approved to the State under section 6(g) of the Alaska Statehood Act and as to which the State, prior to December 18, 1971, had conditionally granted title to, or contracts to purchase, the surface estate to third parties, including cities and boroughs within the State, and such reservations, selections, grants, and contracts had not expired or been relinquished or revoked by the date of this Act, shall not be conveyed by operation of this paragraph: *And provided further*, That the provisions of subparagraph (1)(B) of this subsection shall apply to the conveyances under this paragraph.

43 USC 1611, 1613, 1621.
Ante, p. 2437.
43 USC 1610.
43 USC 1618.
48 USC 353.
43 USC 852 note.
48 USC 46-1.
48 USC note prec. 21.

(3) Subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined by the Secretary to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act, all of the

43 USC 1601 note.
43 USC 1618.

43 USC 1601 note.

right, title, and interest of the United States in and to the estates in a reserve, as such reserve existed on December 18, 1971, which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act. Nothing in this paragraph shall apply to the Village Corporation for the Native village of Klukwan, which Corporation shall receive those rights granted to it by the Act of January 2, 1976 (Public Law 94-204) as amended by the Act of October 4, 1976 (Public Law 94-456).

43 USC 1604 note, 1606 note, 1611 note, 1613 and note, 1615, 1616, 1618 note, 1620, 1621, 1625 and note, 1626, 1627, 1628.

(4) Subject to valid existing rights and section 903(a) of this Act, and except where such lands are within a National Wildlife Refuge or the National Petroleum Reserve—Alaska, for which the Regional Corporation obtains in-lieu rights pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraphs (1) and (2) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate, all of the right, title, and interest of the United States in and to such subsurface estate.

43 USC 1611.

43 USC 1613.

(c) DOCUMENTS.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (b) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of the filing of a document of election described in subsection (a), notwithstanding any delay in the issuance of the interim conveyances or patents.

(d) RECONVEYANCES; DISPUTES.—A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (c) of this section or under such Act. For purposes of the Alaska Native Claims Settlement Act, legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

43 USC 1601 note.

43 USC 1613, 1618.

43 USC 1611.

(e) EXISTING RIGHTS.—All conveyances made by operation of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances or patents had been made or issued pursuant to that Act.

(f) EASEMENTS.—For a period of one year from the date of enactment of this Act, the Secretary may identify and issue a decision to reserve in the patent those easements, pursuant to section 17(b)(3) of the Alaska Native Claims Settlement Act, which are described in section 17(b)(1) of such Act on lands conveyed by this section, but the Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably necessary and he shall be guided by the principles of section 903 of this Act. Upon the finality of the decision so issued, such easements shall be reserved in the conveyance document or documents issued by the Secretary as required by this section.

43 USC 1616.

(g) DEFINITION.—For purposes of this section, the term "Native Corporation" means Village Corporations and Regional Corporations.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

AREAS SUBJECT TO THE NATIONAL NEED RECOMMENDATION PROCESS

SEC. 1501. The process contained in this title shall apply to all public lands within Alaska except for lands within units of the National Park System and the Arctic National Wildlife Refuge. 16 USC 3231.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 1502. (a) RECOMMENDATION.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1501. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation. 16 USC 3232. Publication in Federal Register.

(b) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity; and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) REPORT.—Together with his recommendation, the President shall submit to the Congress— Submittal to Congress.

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress. 42 USC 4321 note. 42 USC 4332.

(d) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

16 USC 3233.

SEC. 1503. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for in submitted to the Congress on 19 .", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

42 USC 4321 note.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution. 15 USC 719f.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-97, pt. I (Comm. on Interior and Insular Affairs) and pt. II (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-413 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 4, 10, 15, 16 considered and passed House.
Vol. 126 (1980): July 21-25, Aug. 4, 5, 18, 19, considered and passed Senate, amended.
Nov. 12, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 49 (1980): December 2, Presidential statement.

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