

**SB**

**293**

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 BRISTOL BAY  
NATIVE CORPORATION  
670 CORDOVA / P.O. BOX 100220 / ANCHORAGE, ALASKA 99510 / (907) 278-3602  
TELECOPY (907) 276-3924

October 28, 1993

Honorable George Jacko  
Alaska State Senate  
716 W. 4th Avenue, #520  
Anchorage, AK 99501-2133

Dear Senator Jacko:

Earlier this year, I wrote to you about allotments in Wood-Tikchik State Park. The log jam has broken and the paper has begun to move between BLM and the State Park Division. Cooperation between BBNA, BLM and Alaska State Parks got the ball rolling. Thank you for your interest in this matter.

Another matter deserves your current attention. Last year Congress authorized BLM to allow Native allottees to relocate their claims to avoid conflicts with legislatively designated State lands. Alaska Department of Natural Resources (ADNR) has determined that an amendment to Title 38.05.035b(9) will be necessary to authorize these relocations. The amendment will be offered along with a number of other Title 38 changes proposed by ADNR.

The ability to relocate a claim out of conflict with legislative designations could benefit many of your constituents. This amendment could also benefit allottees in conflict with the Haines Bald Eagle Preserve, Captain Cook Recreation Area, and other locations around the State. It could be legislation that you would introduce separately so that its fate is not connected to other Title 38 changes.

The language was drafted by the Attorney General's office. Proposed deletions are bracketed; proposed additions are underlined:

AS 38.05.035(b) The director may

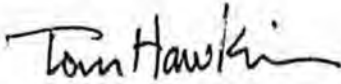
X X X X

- (9) quit claim land or an interest in land to the federal government on a determination that the land or interest in land was wrongfully conveyed by the federal government to the state [;] or that it is in the best interest of

the state to reconvey the land or interest in land under terms authorized by  
43 U.S.C. 1617(c)(Supp. 1993):

If you have questions or comments, please give me a call.

Sincerely yours,

A handwritten signature in cursive script that reads "Tom Hawkins".

Tom Hawkins  
Senior Vice President

cc: Dugan Nielsen, BBNA Realty

Post-It™ brand fax transmittal memo 7671		# of pages » 3
To BRUCE	From DUGRA	
Co. SEN. GEORGE JACKO	Co. BBNA-REALTY	
Dopl.	Phone # 842-2743	
Fax # 465-2992	Fax # 842-5939	

FEB 01 1994

November 15, 1993

1-  
2-  
3-

Dear Wood/Tikchik Allottee,

As you are aware you have waited over 20 years for something to happen with the application you filed for land up in the Wood/Tikchiks. This has not only been frustrating, but too long to wait, as some of the applicants have passed on. Many attempts have been made to get the BLM to work on these applications. Recently the BLM started working on these, as some of you know, as you have received letters from the BLM regarding your application. It is important for you to read these letters and respond to them. BBNA-Realty will be sending you letters also. The letters that you receive from us further explain the letters you may have received from BLM, PLEASE, if we are asking you to contact our office do it. We can only help you if you help us. Anyway, as I said the BLM has started working on the Wood/Tikchik cases. There are a few different ways for these cases to go, you will have a say in how your claim goes by the action you take.

There are options that the State of Alaska is offering as a way for "win win" solutions to the situation of Native allotments in the Wood/Tikchik State Park. I will attempt to explain them.

RELOCATION of your Native allotment to an area outside the Park. The State of Alaska now has the ability to allow Wood/Tikchik allottees to select a piece of land that is presently in State ownership and relocate their allotment to that land, as long as the State agrees that you can move there. As you are aware the State of Alaska is concerned about all the allotments that are in the Park. The State is concerned that everyone who has a claim in the Park may develop their allotments in such a way as to make the Park appear as a village or an area of commercial development and not a Park. But the State would like to see "win win" situations where everyone at least gets a piece of land somewhere to call their own. The State understands people filed on these lands for a reason that is important to them. The State has the job of looking out for the States interest in these same lands, as the Federal government has given the title to the State already. The State has an obligation to manage State land for all the residents of the State of Alaska.

The other option is CONSERVATION EASEMENTS. These Conservation easements involve 3 different categories of land use within your Native allotment.

There is a NON-DEVELOPMENT ZONE, this area cannot be developed in anyway. You can utilize this area for your use but you cannot develop it by putting your cabin or any other improvements in that area.

The second category is the SUBSISTENCE HERITAGE/DEVELOPMENT ZONE, this area can be utilized for a cabin and other types of development, the size of these development zones may vary in size, depending on what you negotiate with the State.

The third category is for the 25 FOOT HABITAT PROTECTION/PEDESTRIAN EASEMENT, this is to help insure that the public will have a way to walk along the shoreline of the lakes. These easements may cover any portion of your Native allotment that has shoreline.

These CONSERVATION EASEMENTS may vary from case to case depending on where your Native allotment is located within the Park. The State of Alaska will be traveling to the villages where the applicants who have claims in the Park live. They will be presenting you with information regarding the options we have mentioned. These are just for Native allotments presently within the Park boundaries. There may be some of you that are not interested in any of these options and you will just want to test the strength of your application and Use and Occupancy. Whatever you decide, it is in your best interest to at least hear the State out on this issue. You need to make your own decision about what will be best for you and your application.

I have been contacted by the State a couple of days ago, they called to inform me that the RELOCATION option is only being made available to Native allottees that have claims within a State park or a Wildlife refuge. This is not available to anyone or everyone that has a Native allotment claim that is in conflict with State lands.

Please contact our office with any questions you may have regarding this matter. You can contact us at 1-800-478-2743 or at P.O. Box 310, Dillingham, Ak. 99576.

Sincerely,  
BRISTOL BAY NATIVE ASSOCIATION

Dugan G. Nielsen  
Realty Officer

The "relocation" of Native Allotments from State Parks is an option to a problem that has been on-going for too long. There have been comments stating that this "relocation" is an unfair way to deal with the Native allotments located in the Wood/Tikchik State Park. It may be unfair from the point of view that an applicant has been waiting to receive Certificate to the piece of land that they used and wanted ownership to for 20 years only to hear that if you want to be guaranteed a piece of land, that you will need to consider moving to another piece of land located somewhere totally different from what you had originally used and applied for.

BBNA-Realty does not have a position for or against the option of relocation. BBNA-Realty does however have an obligation to see that any and all information about Native allotments is made available to our clients. Also BBNA-Realty's participation in any talks with the State of Alaska or any other agency again does not infer a positive or negative position on a particular Native allotment issue. Our job is to be involved with the best interest of our people and clients in mind. Our involvement will hopefully insure that the interests of Native allottee is represented, and that involvement would preclude anything from being forced upon allottees.

Each of you that have applications for Native allotments which are located in the Park have a duty to your own application, for that matter anyone who has a Native allotment application pending need to read and respond to correspondence you receive regarding your Native allotment application. Many times your playing a part in the activity with your application will actually help speed the process up. There are times we have to make many efforts to get a response from a client, this is time that could be spent on several applications rather than just one.

BBNA-Realty continues to pursue Certificate to every application for Native allotment in our Region. Please feel free to contact us at any time regarding your Native allotment or your pending application for a Native allotment. The folks at Realty are your friends and neighbors that many of you already know, we're not strangers, so you don't be one, check in with us.

BRISTOL BAI NALVE ASSOCIATION

Dugan G. Nielsen  
Realty Officer

cc: N.A. file  
Reading file

**MEMORANDUM State of Alaska**  
**DIVISION OF PARKS AND OUTDOOR RECREATION**  
**DEPARTMENT OF NATURAL RESOURCES**

**TO:** Ron Swanson  
 Director  
 Division of Land

**DATE:** 9 December 1993

**TELEPHONE:** 762-2600  
 762-2535 FAX

**FROM:** Peter J. Panarese  
 Chief, Field Operations

**SUBJECT:** Native Allotments in  
 Alaska State Parks

Below listed are the approximate numbers of Native Allotment Applications in units of the state park system. The numbers reported are for pending applications still to be adjudicated. Records on file in the Division of Land may be more accurate in units such as the Alaska Chilkat Bald Eagle Preserve and Denali State Park.

Alaska Chilkat Bald Eagle Preserve	35
Wood-Tikchik State Park	104
Kachemak Bay State Park	2
Captain Cook State Rec. Area	2
Denali State Park	12
Shuyak Island State Park	4
<u>Total</u>	159

Numerous allotment applications in state park units have been adjudicated and patent awarded. Developing detailed information on the number of pending or patented Native allotment claims will take more time. Please give me a call if I can be of further assistance.

*Rick J. Thompson*  
 Div. of Land  
 12/9/93

ALLOTMENT APPLICATIONS:  
 BREAKDOWN BY AREA (DNR)

# BRISTOL BAY NATIVE ASSOCIATION

P.O. Box 310

DILLINGHAM, ALASKA 99576

(907) 842-5257

FEB 03 1994



Senator George Jacko  
Rm. 125 State Capitol  
Juneau, Ak. 99801-1182

Re: Amendments to Title 38

January 28, 1994

Dear Senator Jacko,

As per your request I am forwarding to you information regarding the amendment to 38 that will have a direct effect on Native Allotments in the Wood/Tikchik State Park and other allotments in conflict with State Parks and Refuges. I am enclosing the amendment to ANCSA, amendment language from John Baker of the AGO, and a portion of the Legislative Digest. I hope that this will assist you in crafting a piece of legislation that will serve our needs and be passed by the legislature this season. If there is any way we can assist your efforts please do not hesitate to call upon us.

Sincerely,

A handwritten signature in cursive script, which appears to read "Dugan G. Nielsen".

Dugan G. Nielsen  
Realty Officer

cc Reading file  
W/T file



## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105


#### MEMORANDUM

March 21, 1994

**SUBJECT:** Senate Bill 311 -- Sectional Analysis (Work Order No. 8-LS1317K)

**TO:** Senator George Jacko  
ATTN: Bryce Edgmon

**FROM:** Jack Chenoweth  
Legislative Council



Ch. 67, SLA 1993, imposed the levy of a fishery resource tax of 3.3 percent on fishery resources brought into and first landed in the state, but allowed a credit to be claimed against the tax for contributions made by a taxpayer harvesting under a community development quota. This bill expands that credit to cover contributions by taxpayers not harvesting under a community development quota.

The principal provision of the measure is bill section 3. That section permits the claim of a credit for contributions by a taxpayer other than one harvesting the fishery resource under a community development quota and by a taxpayer harvesting under a CDQ if the taxpayer's contributions that are the basis of the claim of credit are made from the value of fishery resources not harvested under a CDQ. The maximum amount of the credit that these taxpayers may claim, as you explained to me, should be equal to 15 percent of the value of the fishery resource not harvested under a CDQ. However, just as last year's proposed 50 percent credit was reduced to 45.45 percent in order to avoid any loss of revenue available to support the Alaska Seafood Marketing Institute, section 3 of the bill proposes a like reduction in the 15 percent maximum, down to 13.65 percent (as set in this bill section) for non-CDQ-supported tax contributions. (The second page of my January 21 memo to you gives more detail as to how the 13.65 percent figure was derived.)

A related provision, bill section 4 splits the burden of the impact of the new non-CDQ based contribution credits evenly between the amount deposited as unrestricted state general fund and the amount separately accounted and available for payment of revenue sharing by the state with its municipalities.

Senator George Jacko  
March 21, 1994  
Page 2

Bill section 1 authorizes the Department of Revenue to expedite the review of contributions to contributions to nonprofit corporations in order to sidestep receipt and review of separate complete applications. For applications for approval of credits for contributions to nonprofit corporations that are once found to qualify under AS 43.77.040(b), the commissioner of revenue may establish an expedited review procedure on a nonprofit corporation-by-nonprofit corporation basis.

Bill section 2 extends the Department of Revenue's authority to revoke previous approval or to disallow a credit for contributions that do not qualify under the expanded provisions of AS 43.77.040(e), added by bill section 1.

Bill sections 5 and 6 give the amendments made by this Act a July 1, 1994, effective date.

JBC:gc  
94-211.glc

U.S. Congress

Alaska Land Status Technical Corrections Act of 1992 - Referred to as the "ANCSA Technical Amendments Package," the bill contained twenty provisions at final passage, of which twelve were land related and worked on by the AFN Land Committee.

The process employed to generate the bill included an extensive list of proposed amendments by the Department of the Interior (Bureau of Land Management) and the State of Alaska. Since the rules laid down by Congress indicated that only amendments that were non-controversial would be included in the bill, there was a period of approximately eight months when AFN's Land Committee worked with federal and state representatives to forge agreement on proposed amendments.

The Land Committee focused on the following provisions that became law on October 14, 1992:

Section 2. Fort Davis Native Allotment - Legislatively approved Native allotment claims in the Fort Davis (Ncme) area.

Section 3. Native Allotment Relocation - Provides an opportunity whereby an allotment applicant with a valid application as of December 18, 1971 and whose application remains pending as of October 14, 1992, may amend the applications land description, if said description describes land selected by the State of Alaska, to another parcel of State land elsewhere. The exchange is purely voluntary on the part of the allottee. This legislation resolves allottee/State conflicts over land primarily in State park areas.

Section 5. Shareholder Homesite - Extends indefinitely the time frame for village corporations to implement Shareholder Homesite Programs.

Section 6. Chugach National Forest Boundary Change - Modified the boundary of the National Forest to include an additional 9,300 acres. A review of the proposal concluded there would be no adverse impact to adjacent ANCSA corporations.

Section 12. Alaska Native Allotments - Provides an opportunity for the Secretary of the Interior to accept land relinquished by ANCSA corporations in NPRA in order that Native allotments in the respective areas may be certified.

Section 13. Point Hope Townsite - Provides a mechanism by which the Native residents of Point Hope may receive deeds to the lots within the village in accordance with the terms of the Alaska Native Townsite Act of 1926 and allows for reconveyance of lands from the regional and village corporation's to the Department of the Interior when necessary to convey lots to individual Natives.

PARKS AND OUTDOOR RECREATION  
CONCEPTUAL CHANGES TO TITLE 38

• Exchange of Native Allotments Within State Park Units. AS 38.05.35 lists the powers and duties of the DNR Commissioner. We propose an addition. About 100 parcels of land in Wood-Tikchik State Park are claimed as Native allotments. These are also prime sites for public fishing and camping. Private development of these parcels could block public use and degrade the recreational and scenic resources that attract tourists and Alaskans to the park. We propose to authorize the Commissioner to allow allotment applicants to choose new sites outside park boundaries. Some allotment applications have been pending for 30 years. This authority would help applicants get title to good land, and solve park management problems. Most applicants who choose to move would probably pick new sites along the Nushagak and Mulchama rivers.

## State offers relocations for Native allotments in park

By Eric Fry  
BayTimes Staff

To resolve long-standing Native allotment applications in Wood-Tikchik State Park, the state is proposing two options that will circumvent federal adjudication and quicken the process.

The state Department of Natural Resources is offering to relocate allotments in the state park to unencumbered parcels of equal size anywhere in the state.

And the state is seeking voluntary conservation easements from allottees in the park, in which some of the par-

cel is left undeveloped.

Dan Hourihan, district ranger for Wood-Tikchik State Park, recently visited villages near the park to explain the state's position.

There are now 127 allottees who claim 104 parcels of state-owned land in the 1.6 million-acre park. The average allotment is 80 acres, and they total about 9,600 acres of park land.

The state is concerned about large-scale commercial development and large-scale subdivision and sales within the park, Hourihan said at a Dec. 14 meeting in Dillingham.

"The concern is private lands being cut up into small parcels and

subdivided and sold," Hourihan said. "And I don't think it's the people from Koliganek and New Stuyahok, Ekwok and Aleknagik who will be buying these lands."

There are now five sportfishing lodges in the park, four on five-acre parcels and one on a slightly larger parcel, Hourihan said.

Three years ago the Golden Horn Lodge was bought by a Japanese company that wanted to build a hotel that would handle 200 guests a week, he said.

"They wanted to lease more land. Local people were concerned. The

See Park, page 3

## Park ...

From page 1

only reason that development isn't there is the five acre lot size. If they had even 10 acres, they would have built an airstrip," Hourihan said.

"Our concern is that in the 20-, 30-, 40-year time range, current use, traditional use, and habitat will be impacted severely."

The options are intended to diminish that threat yet see the certificate of allotment go to the allottee, Hourihan said.

The allotments originally came under the Native Allotment Act of 1906, which was sunsetted in 1971 with the passage of the Alaska Native Claims Settlement Act.

As a result, many applications for allotments were filed in 1971. But in 1961 the state had selected the land that is now Wood-Tikchik State Park as part of its statehood entitlement.

The park itself was created in 1978 with the mandate to protect the area's fish and wildlife breeding and support systems, and to preserve the continued use of the area for subsistence and recreation.

Applicants for allotments in the state park must prove use and occupancy of their parcel to the potential exclusion of others prior to 1961.

Proof can include witnesses statements as well as physical evidence such as access roads, cabins, steam-baths, wood stove remains, or fuel barrels, said Dugan Nielsen of Bristol Bay Native Association Realty.

Also considered is the presence of resources on site that support the user's claim, and the applicant's personal knowledge of the parcel, he said.

If an applicant can support the facts that establish a right to the allotment, Nielsen said, then the federal government has the responsibility to recover title to the land from any present landowner, including the state.

It has been 21 years since the applications were made, Hourihan said. "Nothing has happened. It's still in the application phase. Little or no action has been taken in the Bureau of Land Management to adjudicate the applications and determine their validity."

The allotments in Wood-Tikchik State Park are just a small part of the total allotments to be reconveyed from the federal government to Natives.

"When we got ANCSA passed, there were about 15,000 Native parcels filed on," said Wayne Boden, BLM deputy state director for conveyance management.

"It costs a lot of money to get them

## The allotments originally came under the Native Allotment Act of 1906

surveyed and make sure the application is valid," he said. "The survey is the big thing. It costs quite a bit to get an aircraft and surveyor out and get all the approvals."

Boden said about 7,400 parcels remain to be certificated statewide. "We're trying to do it in a systematic blocking process so we can go in and do a whole area at one time. We're trying to close out a window at a time," he said.

Gusty Chythlook of BBNA Realty said at the meeting that 1994 is the window for the upper Nushagak and the Mulchatna area, but there is no window for Wood-Tikchik State Park.

This past summer, on the urging of Tom Hawkins, chief executive officer of the Bristol Bay Native Corp., a meeting was held with representatives of the state DNR, the federal BLM, BBNC and BBNA.

Out of that came an agreement that BLM would work on 10 case files a month during the winter, meaning that it would send out "90-day letters" for 10 applications each month.

The letters give notice to interested parties that they have 90 days to make comments for or against the application.

"What it does is start the process moving," Boden said. "They had been held up because of their status in the park over along period of time. There were controversies with the state over this process."

Last year, Rep. Don Young, R-Alaska, sponsored an amendment to ANCSA that allows valid allottees to relocate their parcel of state land to other state land. The relocation must be voluntary. The state DNR and Rep. Lyman Hoffman, D-Bethel, are seeking a similar amendment to state law.

"There's some debate on whether that is necessary," said Hourihan. "We're going to proceed with discussions with anybody who is interested. ...Relocation will appeal to some people, but many will want their original parcel."

Hourihan said that an applicant who wants to relocate should identify the desired land and contact BBNA Realty, which will notify Hourihan. He will do a title search.

"Once BLM is notified, there is no adjudication. There is no use and occupancy criteria associated with this," Hourihan said.

There are applications with use

and occupancy that dates back as far as 1903 and 915, he said. "There are a lot of people who are elders in the community whose applications and the validity of them cannot be questioned."

But there are also allottees in their early 40s who claim use and occupancy when they were eight to 10 years old.

"I expect that there are a number of applicants that if the state decided to go to the ground would be defeated. What we're saying is, we don't want to go that way. We want to create a win-win situation," Hourihan said.

Conservation easements are another option the state is seeking for allotments in the state park. They are voluntary land use covenants that become part of the reconveyance process when the land goes from the state to the federal government and then to the allottee.

Hourihan said there are three basic zones the state likes to see used in a parcel that has a conservation easement: a non-development zone with no structures, a subsistence heritage zone that can include private homes and camps, and a development zone for any commercial purpose.

"We're open to discussions with anybody based upon what they'd like to do with their land. We can craft an agreement to fit individual needs," Hourihan said.

"We notify BLM if we reach agreement with an individual allottee for a conservation easement on an application in the park. We would notify BLM of our attempt to reconvey, and it would abrogate any further need for BLM to determine use and occupancy. So there's an incentive," Hourihan said.

Dugan Nielsen spoke in an interview of the importance of Native allotments.

"Native people's culture is based on the fact that we have land to exist from. Without that, what are we? Where does our identity go? What are we about, then?"

"The issue of subsistence is way high in priority, obviously, for the Native people. Granted, you can't do your total subsistence off a 160-acre parcel of land. But you can to a certain degree," he said.

"Without that land base from which to exist on, what importance is subsistence? How much subsistence can you eke out of the sidewalk in Anchorage?"

"We could win the subsistence issue, and I'll be forced to live in some metropolis or something larger than a village because we don't have a land base," Nielsen said.

# FISCAL NOTE

*glenney*

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SE293

Revision Date: Original Dept Affected: Natural Resources  
 Title: "An Act relating to the authority of the commissione BRU: Resource Development  
of natural resources to reconvey, or relinquish an interest in..." Component: Land Development  
 Sponsor: Senator Jacko  
 Requestor: Senator Jacko Component Serial No. 431

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ None

POSITIONS

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill authorizes the department to reconvey Native allotments that have been relocated on state land to a different location to avoid public interest conflicts. In order for a relocation to occur it must be with the consent of the department and the applicant. This bill allows Native allotment applicants to receive title to land that they can use while avoiding conflicts over public interest values such as access routes, heavy public use areas and important administrative sites.

Prepared by: RS Ron Swanson, Director Phone: 762-2692  
 Division: Land Date: 22-Mar-94  
 Approved by Commissioner: [Signature] Date: 22-Mar-94  
 Agency: DB Harry A. Noah  
Natural Resources

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