

SB

132

# SENATE COMMITTEE REPORT

DATE: 04/15/04

FURTHER:

DATE TURNED  
IN TO OFFICE: 4-27-04

Resources Committee considered      SENATE BILL NO. 132

## SB 132 MINTO FLATS GAME REFUGE & TOWNSITE

"An Act removing the Old Minto townsite from the Minto Flats State Game Refuge; and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Minto Village Council."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 132 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
<u>DOR</u>	<u>4/4/04</u>			<input checked="" type="checkbox"/>	<u>1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<b>CHAIR:</b> <u>[Signature]</u>			<input checked="" type="checkbox"/>	

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB132CS(CRA)-DNR-LSME  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 4/15/2004 Dept. Affected: Natural Resources  
 Title: Minto State Game Refuge and Townsite RDU: Resource Development  
 Component: Land Sales and Municipal Entitlement  
 Sponsor: Sen. Lincoln  
 Requester: Sen RES Component No.: 2460

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (GF 1004)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation directs DNR to convey a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director Phone 269-8600  
Mining, Land and Water Date/Time 4/15/04  
 Approved by: Thomas Irwin, Commissioner Date 4/15/04  
 Agency: Natural Resources

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 132(CRA)  
 (S) Publish Date: 4/15/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title Minto State Game Refuge and Townsi RDU Resource Development  
 Component Land Sales and Municipal Entitlement  
 Sponsor Sen. Lincoln  
 Requester Sen CRA Component No. 2460

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual	0.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (GF 1004)</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This legislation directs DNR to sell a parcel of state land to the Minto Village Council. This proposed Legislation will have no fiscal impact on the department.

Prepared by: Bob Loeffler, Director Phone 269-8600  
Mining, Land and Water Date/Time 4/14/04  
 Approved by: Thomas Irwin, Commissioner Date \_\_\_\_\_  
 Agency Natural Resources



**SENATOR SCOTT OGAN**

23<sup>RD</sup> Alaska State Legislature

Senate District H Lazy Mountain \* Butte \* Chugiak \* Peters Creek \* Fairview Loop  
Knik-Goose Bay \* Big Lake \* Houston \* Willow \* Talkeetna \* Trapper Creek

State Capitol, Room 103, Juneau Alaska 99801 \* (907) 465-3878 \* 1 (800) 862-3878 \* Fax (907) 465-3265

Senator\_Scott\_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: <u>Leg Legal</u>	FROM: <u>Linda Hay - Sen Resources</u>
COMPANY: <u>Don Bullock</u>	DATE: <u>4-27-04</u>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <u>3</u>
PHONE NUMBER:	RE: <u>new CS for SB 132</u>

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

Don - Attached is a copy of the amendment for SB 132 as amended & adopted by the Sen. Resources Committee - please call if there are questions. I believe you were still on line for the conceptual language. This bill did move out of committee & will be read across today.

Thank You

AMENDMENT

#1 as amended

OFFERED IN THE SENATE  
TO: CSSB 132(CRA)

BY SENATOR SEEKINS

1 Page 3, following line 5:

2 Insert a new subsection to read:

3 "(c) The conveyance shall also be made subject to the following terms and  
4 conditions:

5 (1) the Native Village of Minto waives <sup>new lang added</sup> any claim to sovereign  
6 immunity with respect to the land, activities on the land, or persons while they are on  
7 the land; ~~delete~~

8 (2) the land remains under the sovereign jurisdiction of the state;

9 (3) the land immediately reverts to the state if the Native Village of  
10 Minto or a future successor receiving the land or an interest in the land

11 (A) claims that the land is Indian country, as defined in 18  
12 U.S.C. 1151, in an administrative or judicial proceeding; or

13 (B) takes any action relating to the land that is incompatible  
14 with the state's claim of sovereignty over the land."  
15

16 Reletter the following subsection accordingly.

210  
44

Slipped under Senator Co. Lincoln's door over the week-end.

## LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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

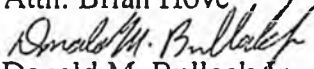
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

### MEMORANDUM

April 23, 2004

**SUBJECT:** Transfer of state land to Native Village of Minto; sovereign immunity (CSSB 132(CRA)) (Work Order No. 23-LS0578\Q)

**TO:** Senator Ralph Seekins  
Attn: Brian Hove

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You asked whether the passage of SB 132 would elevate the Old Minto site to have the same sovereign immunity currently enjoyed by the Native Village of Minto (NVM). The answer to your question depends on what version of SB 132 is enacted. If enacted with the enclosed amendment, NVM would waive its immunity and the answer to your question is no. However, if the bill passes in its present form, the sovereign immunity of the NVM would exist to the extent provided for under federal law and would extend to the old village site as property of NVM.

The waiver of sovereign immunity of a tribe, as would occur with your amendment, is valid as long as it is unequivocally expressed and not implied (*Santa Clara Pueblo v. Martinez*, 436 U.S. 49(1978)). In 1996, the Alaska court also held that, if a Native group enjoys sovereign immunity, that immunity may be waived (*Hydaburg Co-op v. Hydaburg Fisheries*, 826 P.2d 751 (Alaska 1992)).

It is not as clear, however, whether the legislature can declare that the state has full jurisdiction over this tribal property or can require that the land revert if there is a claim that it is Indian country. These two matters may be governed by federal law and federal court decisions.

If I may be of further assistance, please advise.

DMB:mdr  
04-187.mdr

Enclosure

Subject: Re: More for SB 132, Old Minto Bill  
Date: Mon, 26 Apr 2004 11:51:38 -0800  
From: Joe Joyner <Joe\_Joyner@dnr.state.ak.us>  
To: Mark Stopha <Mark\_Stopha@Legis.state.ak.us>  
CC: Janet Burleson <janet\_burleson@dnr.state.ak.us>, John Baker  
<John\_Baker@law.state.ak.us>, Richard Mylius <dick\_mylius@dnr.state.ak.us>

Mark,

We may not necessarily agree with Mr. Bullock's position regarding whether the Village's Sovereign Immunity would extend to lands conveyed to the village by the state. As I understand from our conversation the recipient of this land, Native Village of Minto, is an IRA village not an ANCSA corporation. In fact, it may be that Sovereign Immunity has never been raised with regard to territorial issues. That is, IRA native tribes have some sovereign immunity with regard to its members (marriages, divorces, custody, contracts etc.) but it has not been raised an issue with regard to land. Our Asst. AG. John Baker is far more understanding of these issues than I, and if Janet Burleson approves could be available to answer questions on this issue in this afternoon's hearing at 3:30.

We are also concerned about the addition of a reverter clause that would require the state to monitor actions involving the parcel and to enforce the reversion of the land back into state ownership for any reason. We do not support this provision on the same grounds that we opposed the similar one regarding land use. The state does not want the burden of monitoring these lands or the liability of taking back lands that may be contaminated or encumbered in some way. It would be potentially far more costly to the state to take back contaminated lands than the minuscule risk losing state jurisdiction over this tiny parcel. We would prefer the proposed amendment in subsection (c)(3) not be included in the bill.

Joe

Subject: Re: More for SB 132, Old Minto Bill  
Date: Mon, 26 Apr 2004 12:21:04 -0800  
From: "John Baker" <John\_Baker@law.state.ak.us>  
To: <Joe\_Joyner@dnr.state.ak.us>, <Mark\_Stopha@Legis.state.ak.us>  
CC: <dick\_mylius@dnr.state.ak.us>, <janet\_burleson@dnr.state.ak.us>, "Kevin Saxby" <Kevin\_Saxby@law.state.ak.us>

I'd like to add two clarifications if I could. First, Leg Legal's analysis suggests that sovereign immunity attaches to the land; it does not. Sovereign immunity is an absolute defense against legal actions that is enjoyed by entities recognized as possessing sovereign status. It relates to any legal action against the sovereign. The State routinely requires waivers of sovereign immunity to be able to enforce contracts with tribal entities, so proposed section (c)(1) of the bill certainly would not injure the state's interests. Second, Alaska Native tribes are not currently recognized as having territorial jurisdiction over the land they own. That is, while tribal organizations may assert that their land is "Indian country," no court has yet accepted that position. This legislation would not affect that calculation. Again, though, proposed (c)(2) certainly would not harm the State's position.

With regard to the reverter clause issue, DNR's concern about monitoring and potential liability are certainly reasonable from a legal standpoint. Once land is conveyed out of state ownership and becomes subject to uses which may create contamination or other tort liability, it is generally safer for the state not to re-enter the chain of title.

ALASKA STATE LEGISLATURE  
Senator Georgianna Lincoln

State Capitol  
Juneau, Alaska 99801-1182

(907) 465-3732  
Toll Free: 1-888-461-3732  
Fax (907) 465-2652

E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us

Standing Committees:  
Resources  
Transportation  
Community & Regional Affairs

Joint Committee:  
Legislative Council

Budget Subcommittees:  
Administration  
Transportation

DISTRICT C

Alatna  
Allakaket  
Aniak  
Angoon  
Anvik  
Arctic Village  
Beaver  
Beluga  
Bettles  
Big Delta  
Birch Creek  
Boundary  
Cape Pole  
Central  
Chalkyitsik  
Chandler Lake  
Chenega Bay  
Chicken  
Chisana  
Chistochina  
Chitina  
Chuathbaluk  
Circle  
Coffman Cove  
Cordova  
Cube Cove  
Coldfoot  
Copper Center  
Craig  
Crooked Creek  
Delta Junction  
Deltana  
Dot Lake  
Dry Creek  
Eagle  
Eagle Village  
Edna Bay  
Ellamar  
Ernestine  
Excursion Inlet  
Eureka  
Evansville  
Eyak  
Flat  
Fort Greely  
Fort Yukon  
Fortuna Ledge  
Funter Bay  
Gakona  
Galena  
Grayling  
Gulkana  
Gustavus  
Haines  
Healy Lake  
Hogata  
Hobart Bay  
Holy Cross  
Hoonah  
Hughes  
Huslia  
Hydaburg

MEMORANDUM

TO: Senator Scott Ogan, Chair  
Senate Resources Committee

FROM: Senator Georgianna Lincoln *GL*

RE: Committee Hearing for SB132

DATE: April 14, 2004

At your earliest convenience, please schedule SB132 "An Act removing the Old Minto townsite from the Minto Flats State Game Refuge." This bill simply removes the Old Minto townsite from the Minto Flats State Game Refuge and authorizes the Department of Natural Resources to convey certain land at the historic Old Minto site to the Village of Minto.

Attached please find my sponsor statement and letters of support. If you have any questions please contact my staff, Mark Stopha, who will be working on this legislation.

Hyder  
Kake  
Kaltag  
Kasaan  
Katalla  
Kenicott  
Kenny Lake  
Klawock  
Klukwan  
Koyukuk  
Labouchere Bay  
Lake Minchumina  
Lime Village  
Livengood  
Long Island  
Mankomen Lake  
Manley Hot Springs  
Marshall  
McCarthy  
McGrath  
Medfra  
Metlakatla  
Mentasta  
Minto  
Nabesna  
Naukati Bay  
Nenana  
Nikolai  
Northway  
Nulato  
Ophir  
Point Baker  
Polk Inlet  
Port Alice  
Port Protection  
Rampart  
Red Devil  
Ruby  
Russian Mission  
Shageluk  
Skagway  
Slana  
Sleetmute  
Stevens Village  
Stony River  
Strelna  
Takatna  
Tamacross  
Tanana  
Tatitlek  
Tazlina  
Teli In  
Tenakee Springs  
Tetlin Junction  
Tok  
Tonsina  
Tyonek  
Utopia Creek  
Venetie  
View Cove  
Waterfall  
Whale Pass  
Wiseman  
Yakutat



## Senator Georgianna Lincoln

---

Alaska State Legislature, District C

State Capitol • Juneau, Alaska 99801-1182 • (907) 465-3737 • Fax (907) 465-2652

E-mail: Senator\_Georgianna\_Lincoln@legis.state.ak.us

### Sponsor Statement for Senate Bill 132

**“An Act removing the Old Minto town site from the Minto Flats State Game Refuge and authorizing the Department of Natural Resources to convey certain land at the historic Old Minto site to the Native Village of Minto.”**

In 1971, the residents of Old Minto were forced to move from their village due to flooding and bank erosion. The residents moved to a Native Allotment at the current site of the Village of Minto. The Old Minto site reverted to DNR, and became part of the Minto Flats State Game Refuge in 1988.

Senate Bill 132 will allow for the transfer of approximately 32 acres of land located at the Old Minto Village Site from the Minto Flats State Game Refuge to the Native Village of Minto (NVM). The Native Village of Minto is the governing body of Minto and as such is the appropriate entity to receive the land. Currently, the Interior Athabaskan Cultural Heritage Education Institute (ACHEI) holds a “Public and Charitable Lease” for a youth encampment on the site until 2052.

Old Minto village is located on the banks of the Tanana River, approximately 50 miles northwest of Fairbanks. Old Minto village was the home of the Minto band of Athabaskan Indians from the time of its settlement in 1912 to 1971, when the people relocated to the present village site of Minto due to flooding and bank erosion. Despite relocation, the people of Minto maintain a strong physical commitment to Old Minto. Elders and their descendents go there year-round to camp. The cabins, church, community hall, store, and gravesites still exist today.

THE  
FOLLOWING  
DOCUMENT(S)  
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ORIGINAL  
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*Dedicated to preserving the Athabascan way of life.*

**CULTURAL HERITAGE & EDUCATION INSTITUTE**  
 P.O. Box 73030 • Fairbanks, Alaska 99707 • (907) 451-0923 • FAX (907)451-0910  
 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosquitonet.com

4-1-04

Senator Georgianna Lincoln  
 Senator Ralph Seekins  
 Senator Gary Wilken  
 Senator Therrialt

Representative Al Kookesh  
 Representative Carl Morgan  
 Representative Hugh "Bud" Fate  
 Representative David Guttenberg  
 Representative James A. Holm  
 Representative Jim Whitaker  
 Representative John B. Coghill, Jr.

With Respect to Senators and Representatives,

The Cultural Heritage and Education Institute would like to strongly support and recommend your affirmative vote of bill 132. This bill allows for the transfer of approximately 32 surveyed acres of land, the Old Minto Village site, section 28, township 1 north, range 8 west and Fairbanks Meridian, from the Minto Flats Wildlife Refuge to The Native Village of Minto.

Founded in the year 1915 by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans.

The Cultural Heritage and Education Institute has held many important culture, heritage, language and recovery camps for the people of Minto as well as for others in the spirit of sharing Athabascan culture, wisdom, and traditional native ways of knowing. The Minto Family Recovery Camp has helped hundreds of people since 1989. It is the place where the stories are told, and where they can be heard in the setting most conducive for youth to learn. The people of Minto continually visit this special place, by boat, dog sled or snow machine. Whether it

*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishtail (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tonidra Gheltsilna)." - Chief Peter John*



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 website-<http://www.ankn.uaf.edu/chei> Email-Chei@mosqultonet.com

*is hunting, fishing, basket making or storytelling, the message for the youth is the same; this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*

This land has always belonged to these peoples. It is our belief that it should remain with them. Thank you for your attention to this important matter. Feel free to contact us with any questions.

*Robert Charlie*  
 Robert Charlie  
 Executive Director  
 Cultural Heritage and Education Institute



*"In the old days . . . everybody belonged to a clan. In Minto, there are four: Caribou (Bedzeyh Ti Xwt'ana), Fishfall (Ch'echalyu), Paint (Tsiyhyu), and Middle (Tondra Ghelstlna)." – Chief Peter John*

## *Old Minto Village Site*

Minto Tribal Council Resolution # 03 - 06

Whereas, The land is like our parent, providing us with nourishment and the foundation of our culture, and

Whereas, The Minto people have lived on the land of the Minto Flats continuously for centuries, relocating from the Old Village Site to the present location due to flooding conditions at the Old Site, and

Whereas, Even though the people had to relocate to a new village site, the people of Minto continuously travel to and stay at the Old Village Site to renew the spiritual connection to the site, and participate in cultural activities, and

Whereas, The Old Village Site is still the home of the people who were born there, the connection has never left them, and if the land were granted to the people of Minto this connection would be secure for future generations, and

Whereas, The Minto Village Council is the governing body of the Native Village of Minto, representing all the Minto people, and as such is the most appropriate entity to receive the land and to care for it for generations to come, and

Whereas, The Minto Village Council is a responsible land manager and has the ability to protect the land and its resources, including the important services provided by the Old Minto Recovery Camp that is so valuable for alcohol treatment, as well as the Cultural Heritage and Education Institute.

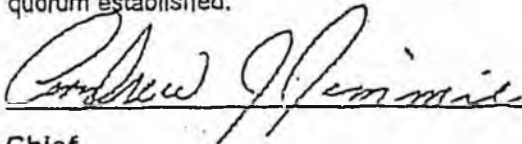
Whereas, It is in the best interest of the State of Alaska to protect the rich cultural heritage of Alaska's indigenous people by transferring the Old Minto

Village Site land, and the responsibility of caring for its cultural significance, to the Native Village of Minto.

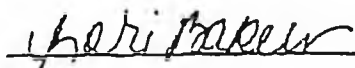
Now Therefore Be It Resolved that the Minto people support the transfer of approximately 32 acres of land at the Old Minto Village Site from the Minto Flats Wildlife Refuge to the Native Village of Minto through the most expedient way available to the State to make such transfer.

#### Certification

This resolution was adopted by the Minto Village Council by a vote of 5 in favor, 0 opposed, and \_\_\_ abstaining, at a meeting of the Tribal Council where notice was posted and a quorum established.

  
\_\_\_\_\_

Chief

  
\_\_\_\_\_

Secretary/Treasurer

## Tanana Chiefs Conference

Chief Peter John Tribal Building

122 First Avenue, Suite 600

Fairbanks, Alaska 99701-4897

(907) 452-8251 Fax: (907) 459-3850

April 7, 2004

### SUBREGIONS

#### KUSKOKWIM

McGrath  
Medfra  
Nikcok  
Takovna  
Telida

Senator Georgianna Lincoln  
Senator Ralph Seekins  
Senator Gary Wilken  
Senator Theriault

Representative Al Kookesh  
Representative Carl Morgan  
Representative Hugh "Bud" Fate  
Representative David Guttenberg  
Representative James A. Holm  
Representative Jim Whitaker  
Representative John B. Coghill, Jr.

#### LOWER YUKON

Anvik  
Grayling  
Holy Cross  
Shogeluk

#### UPPER TANANA

Dot Lake  
Eagle  
Heavy Lake  
Northway  
Tanacross  
Tatlin  
Tok

Honorable Senators and Representatives:

I am writing today to express support for SB 132 on behalf of Tanana Chiefs Conference (TCC) and the Old Minto Family Recovery Camp. TCC operates the Old Minto Family Recovery Camp, an alcohol and drug rehabilitation facility, on the land that would be transferred by SB 132. As an affected entity, TCC supports and recommends passage of SB 132, which would transfer of approximately 32 acres of land at the Old Minto Village site from the Minto Flats Wildlife Refuge to the Minto Village Council.

The Old Minto Family Recovery Camp has held many substance abuse treatment sessions at the Old Minto site building resiliency for patients in recovery by sharing Athabascan culture, wisdom, and traditional Native ways of knowing. In this way the Old Minto Family Recovery Camp has helped hundreds of people since its opening 1989. It is a place where stories are told, and where they can be heard in a setting most conducive for patients to become sober.

The people of (New) Minto continue to visit this special place, by boat, dog sled, and snow machine throughout the year, checking on staff and patients to support them on their journey to sobriety. The people of Minto also support our yearly Sobriety Potlatch with hundreds of people in attendance. The sober Elders of Minto share their stories of sobriety with the patients during a 4-day period as they show the patients how to prepare traditional foods. These lessons are invaluable to the patients, helping them to recover who they are as sober Alaska Native people.

The land at Old Minto has always belonged to the Minto people. And it is our belief that it should remain with them. Cultural Heritage Education Institute's letter of support on SB 132 details the history of Old Minto as follows:

"Founded in the year 1915, by Chief Charlie, Old Minto is a Historic and Traditional site where Athabascan Elders feel their connection to the earth the strongest, indeed it is the spiritual center of their people. For the Minto peoples, it is here that one goes to for

healing, for spiritual connection, and to visit the old resting places of their ancestors. The village was moved in 1969 due to bank erosion and flooding, but the people continue to have strong ties to their homeland. Knowing where one comes from is important to the cultural identity of Minto Athabascans... Whether it is hunting, fishing, basket making or storytelling, the message for the youth is the same; *this is our place, where we belong and where our ancestors speak to the spirit of our peoples.*"

It cannot be said any better than this so. Please include Tanana Chiefs Conference and the Old Minto Family Recovery Camp as supporters of the land being returned to the Minto people.

Thank you for your attention to this important matter. Feel free to contact me with any questions.

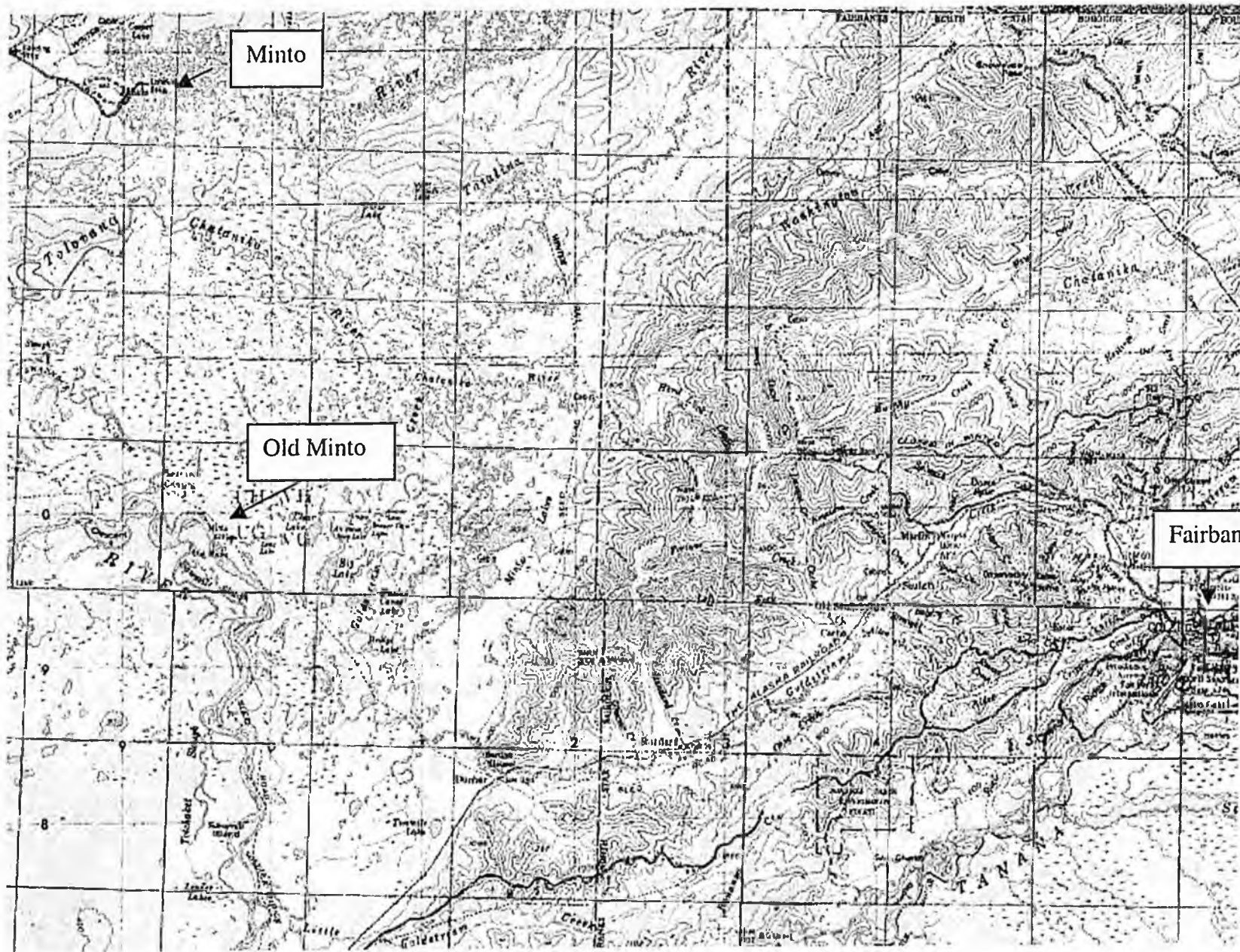
Sincerely,

TANANA CHIEFS CONFERENCE

A handwritten signature in black ink, appearing to read "Harold Brown", with a long horizontal flourish extending to the right.

Harold "Buddy" Brown, Esq.  
President and Chairman

cc: Old Minto Recovery Camp



Minto

Old Minto

Fairbanks

TO: Ted Popely  
Alaska State Legislature

FROM: Don Mitchell

SUBJECT: SB 132 (Senate Community and Regional Affairs Committee Substitute)

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The answers to your queries re SB 132 are as follows:

1. In 1939 the Native Village of Minto (NVM) organized, and received a constitution approved by the Secretary of the Interior pursuant to, the Indian Reorganization Act (IRA).
2. The NVM is one of the Native Entities listed on both the list of Native Entities that the Assistant Secretary of the Interior published in the Federal Register in 1993 and on all succeeding lists. As a consequence, the Secretary of the Interior and the Alaska Supreme Court (in its John v. Baker I decision) assert that the NVM IRA Council is the governing body of a "federally recognized tribe" that possesses both (undefined) governmental authority and sovereign immunity. If the Secretary and the Court are correct, then, as a practical matter, its sovereign immunity allows the NVM IRA Council to refuse to comply with state environmental and all other laws vis-a-vis its use of the Old Minto Site and, if an individual should be injured on the site as a consequence of the NVM IRA Council's negligence, that individual would not be able to file a lawsuit against the NVM IRA Council in either state or federal court.
3. The only sovereign immunity lawsuit presently in any court and of which I am aware is Shannon v. Native Village of Selawik Indian Reorganization Act Council, which is before the U.S. District Court in Anchorage. The complaint in that case requests the court to enter a declaratory judgment that the Secretary of the Interior and Alaska Supreme Court are wrong that, because it appears on the Federal Register list, a Native Entity is a "federally recognized tribe" whose governing body possesses sovereign immunity. If the plaintiff prevails in that action, by inference, the declaratory judgment will apply to the NVM, as well as to Selawik.
4. The Athabascan Indian residents of Minto have incorporated the Seth-De-Ya-Ah Corporation, an ANCSA village corporation. If title to the Old Minto Site is conveyed to the village corporation - rather than to the NVM - there would be no potential sovereign immunity problem.
5. Other observations:
  - A. section 3(b) of the committee substitute reserves to the State of Alaska the right to enter the Old Minto Site only for the purpose exploring for/developing the oil and gas

and other subsurface resources that subsection (b) reserves. Query: should the State reserve the right to enter the site for other purposes as well? If it should, what other purposes?

B. Should the bill require, as a condition for the conveyance, the NVM IRA Council to waive its sovereign immunity, albeit if any, vis-a-vis its ownership and management of the Old Minto Site?

C. Should the bill require, as a condition for the conveyance, the NVN IRA Council to agree that state law and regulations will continue to apply within the boundaries of the Old Minto Site?

D. Unless the terms of a long term lease include a waiver by the NVM IRA Council of its purported sovereign immunity, the same potential sovereign immunity problem that exists vis-a-vis a conveyance of title would continue to exist.

**Subject:** SB 132

**Date:** Mon, 19 Apr 2004 00:22:00 -0800

**From:** "Richard or Mary Bishop" <rbishop@ptialaska.net>

**To:** "Sen. Ralph Seekins" <Senator\_Ralph\_Seekins@legis.state.ak.us>, "Senator Scott Ogan" <senator\_scott\_ogan@legis.state.ak.us>

**CC:** "Jenn Yuhas" <aoc@alaska.net>

*Saw  
Lincoln's  
bill -*

Attn: Brian Hove, Linda Hay

Hi Brian and Linda- Jeff Logan has probably told you that AOC opposes SB 132. The reasons are: 1) The village council may be viewed as a tribal government. The Alaska Supreme Court has assumed that tribes have some degree of sovereign immunity; to some extent, which doesn't seem to have been defined, tribes may not be subject to state or federal laws, particularly on "tribal" lands. So, this bill may mean creating a "hole in the doughnut" (the Minto Flats State Wildlife Refuge doughnut) where state laws don't apply to uses of fish and game. It may also mean removing the land and activities from other state or federal regulation, such as eventual taxes, child care laws (where there's already confusion about the relation of state and tribal authorities), allowed uses on the land, legal jurisdiction over non-tribal members, and other matters.

Also, even given the Ak Supreme Court decision in Runyon v. AVCP where the court seemed to assume, or accept, some tribal sovereignty for AK villages, as we understand it there is a legitimate legal question as to whether AK villages are tribes, since Congress did not affirm their designation by Ada Deer in '93 or '94. Don Mitchell argues they aren't legally tribes. By giving land to a village council, the State may be promoting the idea that the council is a legitimate tribal entity, and allowing the establishment of "Indian country" (land owned by a tribe). "Indian country" allows the tribe to exercise more authority under federal law.

The U.S. Supreme Court in the Venetie case basically ruled that none of the ANCSA lands are "Indian country". The settlement was done by giving lands and money to CORPORATIONS set up under state law, and subject to state and federal laws.

If the State wishes to accommodate the cultural and sobriety camps conducted at Old Minto, which are very worthwhile programs, the land should be transferred to the village corporation, which is subject to state and federal laws, rather than to a tribal entity with uncertain obligations under these laws. Also, AOC does not believe the State of Alaska should contribute to the confusion over the legal status of Alaska's villages by an action that could be interpreted as recognizing tribal status where it may not exist.

Please give me a call at 455-6151 if you'd like to discuss this further.

Dick Bishop, President, AOC

TO  
SENATOR OGAN

FROM  
Dick BISHOP, AOC

RE SB 132

TWO PAGES TOTAL

Please include my testimony  
in the Committee record.

Thank you,

Dick

**Testimony to the Senate Resources Committee  
On SB 132, relating to transfer of Minto Refuge land  
By Dick Bishop, President, Alaska Outdoor Council, 4/26/04**

Mr. Chairman and members of the Committee, I am Dick Bishop of Fairbanks. I am testifying on behalf of the Alaska Outdoor Council, of which I am president.

The Alaska Outdoor Council opposes SB132 as currently written. While we applaud the work of the alcohol recovery program and the cultural heritage center operated on the land in question, we do not support transferring state land to another ownership.

The Minto Flats State Game Refuge is an important resource for general public uses. Although there are numerous inholdings within the Refuge, we do not believe the public interest will be served by creating more.

Transfer of the acreage to the Native Village of Minto would very likely mean that activities there – ranging from fish and game regulations to public safety – would no longer be subject to state law. Because the Native Village of Minto was listed as a “tribe” by the federal Interior Department in 1993, along with about 220 other Native villages in Alaska, the Village IRA Council has some claim to sovereign immunity from suit and to other governmental authority.

Although the certainty and the effects of the sovereignty claim are not entirely clear now, current events, including a recent Alaska Supreme Court decision (Runyon v. AVCP) suggest some recognition of sovereign immunity and other governmental authority for villages that were designated tribes in the 1993 Interior Department action. At the very least, there is great confusion about how state and federal laws relate to organizations claiming sovereign tribal authorities.

The Alaska Outdoor Council is concerned about how this confusion and potentially conflicting jurisdictions may affect stewardship of the Minto Flats State Game Refuge and public uses. The Council is also concerned about what sort of precedent may be established with regard to the application of state (and perhaps some federal) laws to lands and waters that may be claimed by villages that claim some degree of sovereign authority.

Finally, we wonder what sort of agreement the State of Alaska has relating to the development of the airstrip and the alcohol recovery and cultural centers on the Refuge – which have been projects of several years duration?

The AOC recommends that the state retain the land and perhaps work out some long-term lease, or possibly transfer the land to the state regulated ANCSA village corporation, with appropriate safeguards regarding future uses, ownership and jurisdictional authority.

*Dick Bishop*