HB 383 cont.

2393

Proposed Agreement

The purpose of this agreement is to end the element of uncertainty surrounding land use in the Southcentral part of Alaska by settling the native claims and the federal court case.

The basic design is thus: The federal government, realizing it cannot meet its responsibility to the Cook Inlet Region under the Claims Act for land of "similar character" because the state has patented to it virtually all such land in the Cook Inlet Basin, proposes to purchase approximately 500,000 acres from the state to satisfy the Region's entitlement. In return for these lands, the state will receive from the federal government approximately 2½ acres for one acre given up, or a total of 1,200,000 acres (a considerable increase over the Statehood allotment).

The opportunity was taken during the negotiations to help rectify the scattered, irrational land ownership patterns that presently exist and might continue to exist under any other solution.

State Receives:

--- 26 townships in the Lake Clark, Iliamna area and 7 townships in the Tutna Lake area for fisheries management and development of parks and recreation to include sport hunting and fishing.

--- 8 townships in the Talkeetna Mountains for parks and recreation.

--- 11 townships in the Kamishak Bay area. This would become the only state-owned coastal land from Pt. Harriet on the west side of the Inlet to the tip of the Aleutian chain.

--- Campbell Airstrip (site of proposed Far North Bicentennial Park), Pt. Woronzof, Pt. Campbell and Goose Lake.

--- An additional selection right to 12.4 townships in the Talkeetna Mountains (in the [redacted] River area where the State Experimental Forest is now located).

Cook Inlet Receives:

Federal lands

--- Approximately 30 townships outside the Region. The federal and state governments will have the right to exclude certain lands from selection; in addition the state has an alternative "strike" prerogative throughout the selection.

--- Subsurface rights only in one half township on the west side of the Inlet.

--- 10,000 acres in the Kenai Moose Range. This land may not be sold for 25 years and the federal government retains first right of refusal. There is also a 300 yard restricted zone (compatible development) running along the waterfront of Tustumena Lake and Kasilof River.

--- Subsurface rights only in 9½ townships in the Moose Range with development restricted to oil, gas or coal for gasification.

State Lands

--- 1.2 townships in scattered tracts in the Mat-Su Valley.

--- 5 townships in the lower Kenai Peninsula.

--- 13.5 townships in the Beluga area containing 25% of the proven coal reserves (75% retained by the state).

Federal Government Receives:

--- No land directly, but retains title to a number of townships within Cook Inlet Region which the Regional Corporation would otherwise select.

--- Settlement of Cook Inlet Region's entitlement under the Claims Act.

--- Settlement of Cook Inlet's law suit against the Secretary of the Interior.

--- Minimal impact on the Moose Range.

Other Considerations:

--- All lands transferred to the native corporation will contain Claim safeguards, such as easements.

--- All state lands coveyed will contain dedicated or platted section line easements and highway or other rights of way.

--- Guarantee of townships in Lake Chelatna and Tuxedni Bay now held by the state but under challenge in the federal law suit mentioned above.

--- No oil and gas fields will be transferred to native ownership. All revenues currently received by the state, e.g., Swanson River, will continue.

Prepared by Cook Inlet Region, Inc. February, 1976.

CIRI

COOK INLET REGION, INC.

April 30, 1985

The Honorable Richard Schultz
House of Representatives
State of Alaska
Juneau, Alaska 99811

Re: House Bill No. 383

Dear Representative Schultz:

We have been asked to provide the House Resources Committee with background information about H.B. 383 (Illinois Creek Recoupment Conveyance). More specifically, it is our understanding that the Committee has requested answers to eight questions. In the very short time available to us we have attempted to assemble this information and it is presented below on a question-by-question basis.

Several of the questions concern aspects of the Cook Inlet Land Exchange which was passed by the Alaska Legislature in March of 1976, over nine years ago. While we are happy to provide this information for the Committee's review, I would like to point out that the land exchange was very complicated in nature and received more public, legislative, and judicial scrutiny than any land exchange in Alaska's history.

1. Identify all lands CIRI received in the Cook Inlet Land Exchange (including maps).

The Cook Inlet land exchange was a three-way exchange among the State, Federal Government, and Cook Inlet Region, Inc. (CIRI). Maps showing the locations of the lands involved, and a specific list of the acreages involved, are found on pages 2-4 of Attachment A. This attachment, entitled "A Report to the Senate and House of Representatives Resources Committees of the Alaska State Legislature on the Proposed Cook Inlet Land Trade (March 6, 1976)" was prepared by the Joint Federal-State Land Use Planning Commission for Alaska. This report was prepared by the Planning Commission at the specific request of the House and Senate Resources Committees during their deliberations on the Cook Inlet land exchange. The report

CIRI BUILDING 2525 "C" STREET P.O. DRAWER 4-N ANCHORAGE, ALASKA 99509
(907) 274-8638 TELECOPIER (907) 279-8836

represents the most unbiased and professional review of the merits of the land exchange that was done at that time.

II. What is the value of the lands involved in the Cook Inlet Land Exchange for both the State and CIRI?

Economic evaluation of resources covering an area as large as that included in the Cook Inlet land exchange is difficult at best. The values used during debate on the land exchange are shown in Table 1 of Appendix E to the Land Use Planning Commission Report cited above.

III. What is the value of the mineral resources involved at Illinois Creek?

As the result of valid mining claims previously filed under state law by Anaconda Mining Company, title to the mineral estate in these lands already has passed into private hands. As the Committee may appreciate, a mining company's assessments of value are derived at the cost of substantial investments in exploration, and are therefore considered proprietary in nature. However, like virtually all mineral prospects in Alaska, the present value of mineral resources on these lands is subject to the extreme variables of future development costs and world market conditions. CIRI and Anaconda have a working agreement which they believe will significantly increase the chances for development of this resource. The State, of course, will retain its full sovereign authority to regulate and to impose severance or other taxes upon the mineral resources in these lands.

IV. What is the number of total acres nominated under the original agreement?

The exact meaning of this question is not clear to us. However, it appears to address the acreage nominated by CIRI under its out-of-region selection entitlement. While the formal nomination process for out-of-region lands did not occur because the State and CIRI consummated an Out-of-Region Selection Agreement, had CIRI nominated lands they would have totaled 180 townships. While some of these lands would have been federal lands not selected by the State, probably in excess of 70%, or 126 townships, would have been lands already selected by the State. These State-selected lands would have been clouded with a potential priority of CIRI's selection rights. Implementation of the Out-of-Region Agreement, of which the present legislation is a part, will virtually eliminate this nomination process as a cloud on State selection of federal lands.

V. What is the nature of public easements along rivers and lakes on CIRI lands?

CIRI has taken the lead among Native Corporations in promoting use of all its land for public recreational purposes, not just along lakes and streams. Attachment B shows an example of CIRI's newspaper ads soliciting public use of CIRI lands. Moreover, CIRI also has entered into land exchanges with the federal government which would ensure public ownership of important recreational lands (e.g., the public fishing site at the confluence of the Kenai and Russian Rivers). Finally, public easements under ANSCA also have been placed on all CIRI lands, as has been done on all Native conveyances.

VI. Why was AS 38.50 waived in the Illinois Creek Recoupment Legislation?

Because H.B. 383 is not a land exchange. The values received by the State include nonquantifiable values which would not fit A.S. 38.50 procedures. For example A.S. 38.50 applies to land exchanges where the lands to be exchanged have been specifically identified. In this situation, the State will recoup an equivalent acreage of selections, but exactly which lands it will select are unknown at this time. To ensure that the State receives at least equal value, this matter has been presented to the Legislature for its review of all values involved.

VII. Why did Cook Inlet select petroleum-producing lands?

In fulfilling its selection entitlement CIRI selected lands having a multitude of resource capabilities including timber, agriculture, grazing, gravel, and hardrock minerals as well as lands with oil and gas potential. Any entity selecting lands for management of a broad resource base would logically include lands with oil and gas potential.

VIII. What is the total resource value of CIRI vs. state lands?

The exact nature of this question is unclear. If it refers to the resource values of lands involved in the Cook Inlet land exchange, the information may be found as described in the response to question #2 above. If it refers to the resource values of the Illinois Creek lands vs. lands the State will recoup through additional selection of equal acreage, the answer can not be given because the recoupment acreage has not yet been identified. However, since the mineral values have already been alienated from state ownership at Illinois Creek, and since the surface values are generally considered to be low, the recoupment lands would likely be at least as valuable, and probably of greater value, than the resource value the State presently retains at Illinois Creek. It should be noted

that much of the value the State will receive in exchange for the Illinois Creek lands are not direct resource values, but other values such as the ability to obtain title to other state selected lands, which could otherwise be selected by CIRI, in an orderly and expioited manner.

As many of the questions are related to the "Out-of-Region Agreement" signed by the State and CIRI, I am including a copy of that agreement as Attachment C for your information.

The information we have supplied above is a good faith attempt to answer the eight questions as we understand them. If there is any additional information which we can provide, we will do our best to make it available to the Committee as soon as possible. To ensure that the Committee has as much time as possible to review this information, we are supplying copies of this letter, and attachments, to all Committee members.

Your consideration of the legislation is very much appreciated.

Yours truly,

COOK INLET REGION, INC.

Roy M. Huhndorf
President

RMH:cif/213:6

cc: House Resources Committee Members

Attachments

A. Joint Federal-State Land Use Planning Commission Report to the Senate and House of Representatives Resources Committees of the Alaska State Legislature on the Proposed Cook Inlet Land Trade (March 6, 1976).

B. CIRI's Public Use and Access Program

C. State-CIRI Out-of-Region Agreement

Land Dept

ATTACHMENT A

"COOK INLET" REPORT

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

A REPORT TO THE SENATE AND HOUSE OF REPRESENTATIVES
RESOURCES COMMITTEES OF THE ALASKA STATE LEGISLATURE
ON THE PROPOSED COOK INLET LAND TRADE

MARCH 6, 1976

The Joint Federal–State Land Use Planning Commission for Alaska was created by Congress and the Alaska Legislature to provide a statewide land use planning process that will insure the economic development of the State in a manner that is compatible with the social and economic well-being of the public, their interests, and the environment.

The Commission also is to improve coordination and resolve conflicts between the State, Federal government, and private landowners in the State, and recommend laws, policies and programs to the President, Congress and the Governor of Alaska for a coordinated comprehensive statewide land use planning process.

The Commission, created by the Alaska Native Claims Settlement Act of 1971, is headed by the Governor of Alaska or his full-time Co-Chairman, and by a Federal Co-Chairman appointed by the President of the United States. Four Commissioners are appointed by the Secretary of the Interior, and four by the Governor of Alaska.

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

A REPORT TO THE SENATE AND HOUSE OF REPRESENTATIVES RESOURCES COMMITTEES OF THE ALASKA STATE LEGISLATURE ON THE PROPOSED COOK INLET LAND TRADE

This report is a summary of the primary considerations underlying the recommendation of the Commission on the proposed Cook Inlet Land Trade. It is submitted in response to a request for Commission review and recommendation made on February 11, 1976 by the Resources Committees of the Alaska State House of Representatives and Senate and by the President of the Senate, Senator Chancy Croft, on February 17, 1976.

The Commission's recommendation is:

> That appropriate legislation be passed authorizing the Cook Inlet Settlement under the terms and conditions of P.L. 94-204.

CONTENTS

SYNOPSIS OF PROPOSED LAND TRADE

Section 12 of Public Law 94-204, passed by Congress on January 2, 1976, together with an agreement entered into December 10, 1975, by representatives of the Department of the Interior, Cook Inlet Region, Inc., and the State of Alaska, which is incorporated by reference in the Act, sets out the terms and conditions of the Cook Inlet Land Trade. The major elements of this complex trade are:

.....Agreement by Cook Inlet Region to shift more than half of its statutory entitlement under ANCSA away from the Cook Inlet area and, with the consent of other regions and villages, into adjacent regions.

.....Conveyance by the Federal government of approximately 50 townships of land to the State of Alaska above the entitlement provided in the Alaska Statehood Act, as well as key tracts such as Campbell Airstrip, Campbell Point, Point Woronzof, and Goose Lake in the Anchorage bowl in exchange for approximately 20.5 townships of State land to be conveyed to the United States for the benefit of the Cook Inlet Region and certain of its village corporations. This results in an increase of total State land selections of approximately 30 townships.

.....Conveyance by the Federal government of approximately 10,000 acres in fee and 220,000 acres of subsurface rights outside of known producing oil fields in the Kenai National Moose Range and certain other lands to Cook Inlet Region, Inc., in addition to the lands received from the State. The lands received by Cook Inlet are in complete satisfaction of its entitlement under Section 12(c) and Section 14(h)(8) of ANCSA.

A map illustrating the current land status of the region and one delineating the lands proposed for exchange with an accompanying chart of the size of the tracts are on the following pages. Full details of the settlement may be found in the agreement which is reproduced in House Report 94-729, dated December 15, 1975.

State ratification of the endorsement requires legislative concurrence no later than sixty days after the convening of the second session of the Ninth Alaska State Legislature, or by March 12, 1976.

MARCH 1976 ALASKA

PROPOSED COOK INLET LAND EXCHANGE SETTLEMENT

Native*

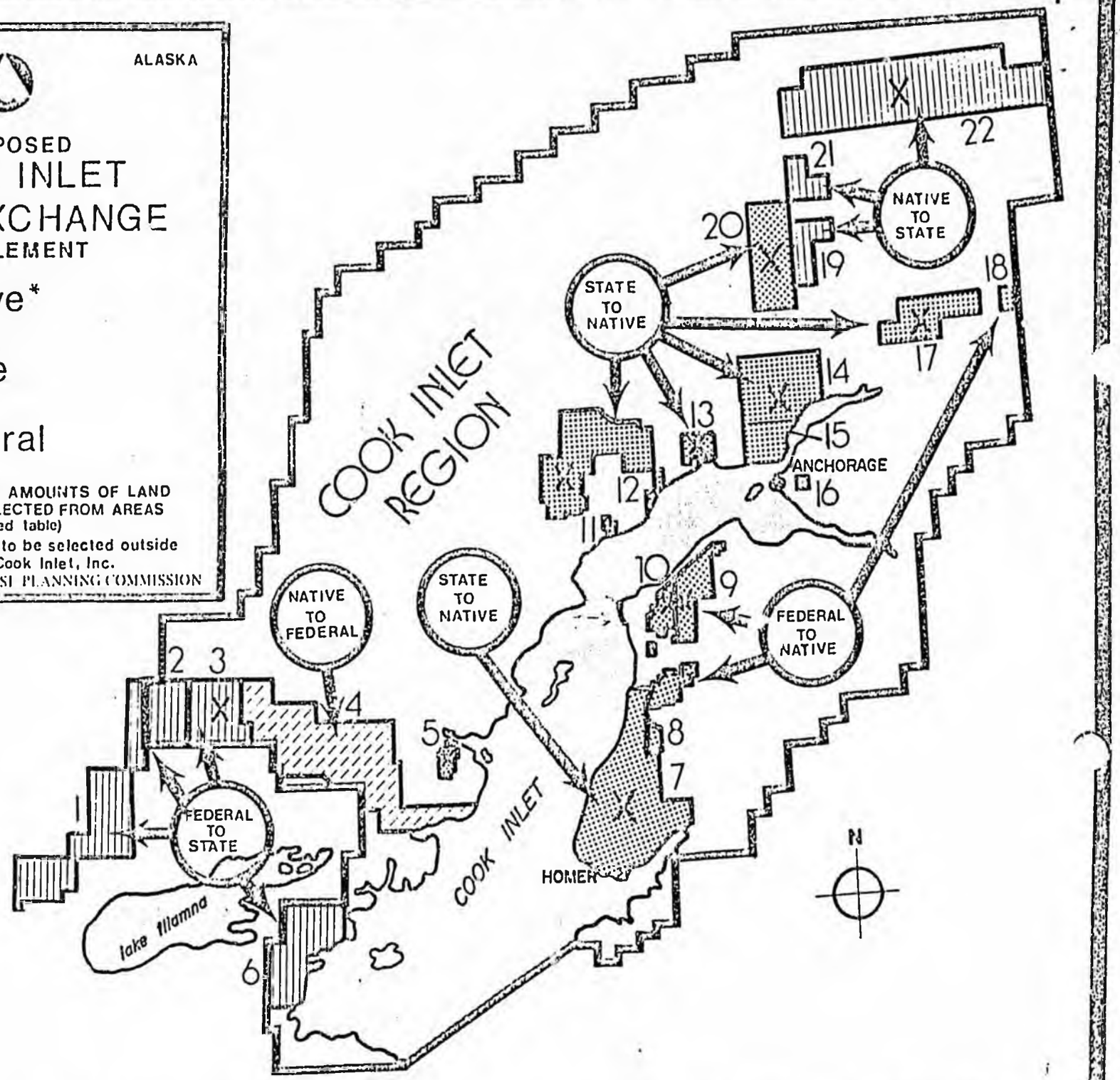
State

Federal

XX SMALLER AMOUNTS OF LAND TO BE SELECTED FROM AREAS (see attached table)

* 29-66 Townships to be selected outside region by Cook Inlet, Inc.

FEDERAL STATE LAND USE PLANNING COMMISSION



Area Name	Approx. Area Size in Twnshps.	Approx. Number of Townships to be Selected, and Notes
These not shown on map:		
Anchorage area	.1	Miscellaneous tracts if surplused.
Healy	1	1
Intra-Regional exchange pool	6	0-6 - from surplus or revoked U.S. reserves and unperfected land entries. Available for exchange only on acre/equivalent basis for extra regional selection.
Extra Regional	N.A.	Up to 29.6 - subject in part to exchange, appropriate village regional, U.S., and State agreement, and State %-strike provisions.

* These total 28 townships - only 26 to be selected.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

SYNOPSIS OF PROPOSED LAND TRADE

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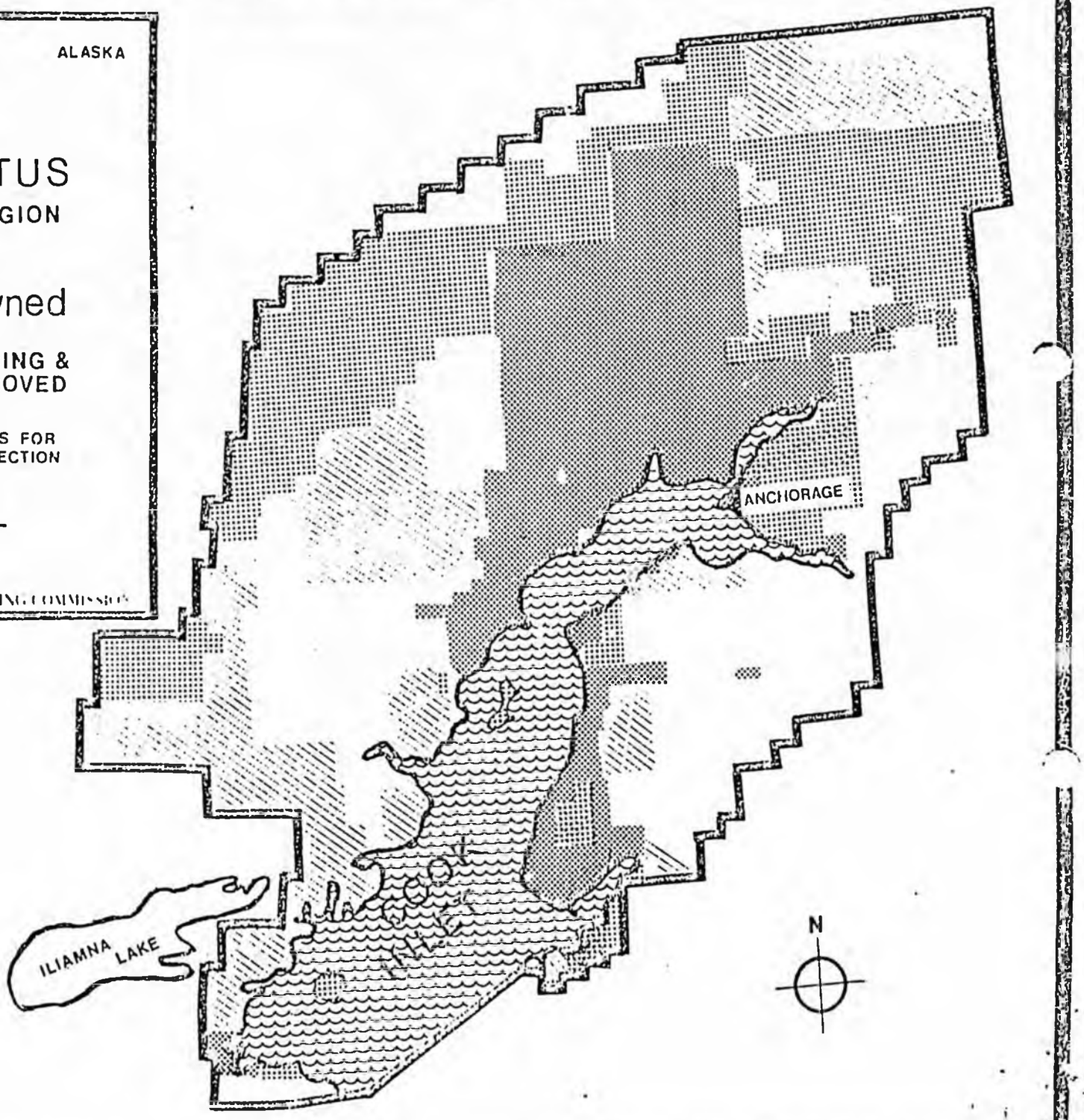
MARCH 1976 ALASKA

CURRENT LAND STATUS

COOK INLET REGION

- State Owned
- State PENDING & APPROVED
- Native AREAS FOR SELECTION
- FEDERAL

FEDERAL - STATE LAND USE PLANNING COMMISSION



MARCH 1976 ALASKA

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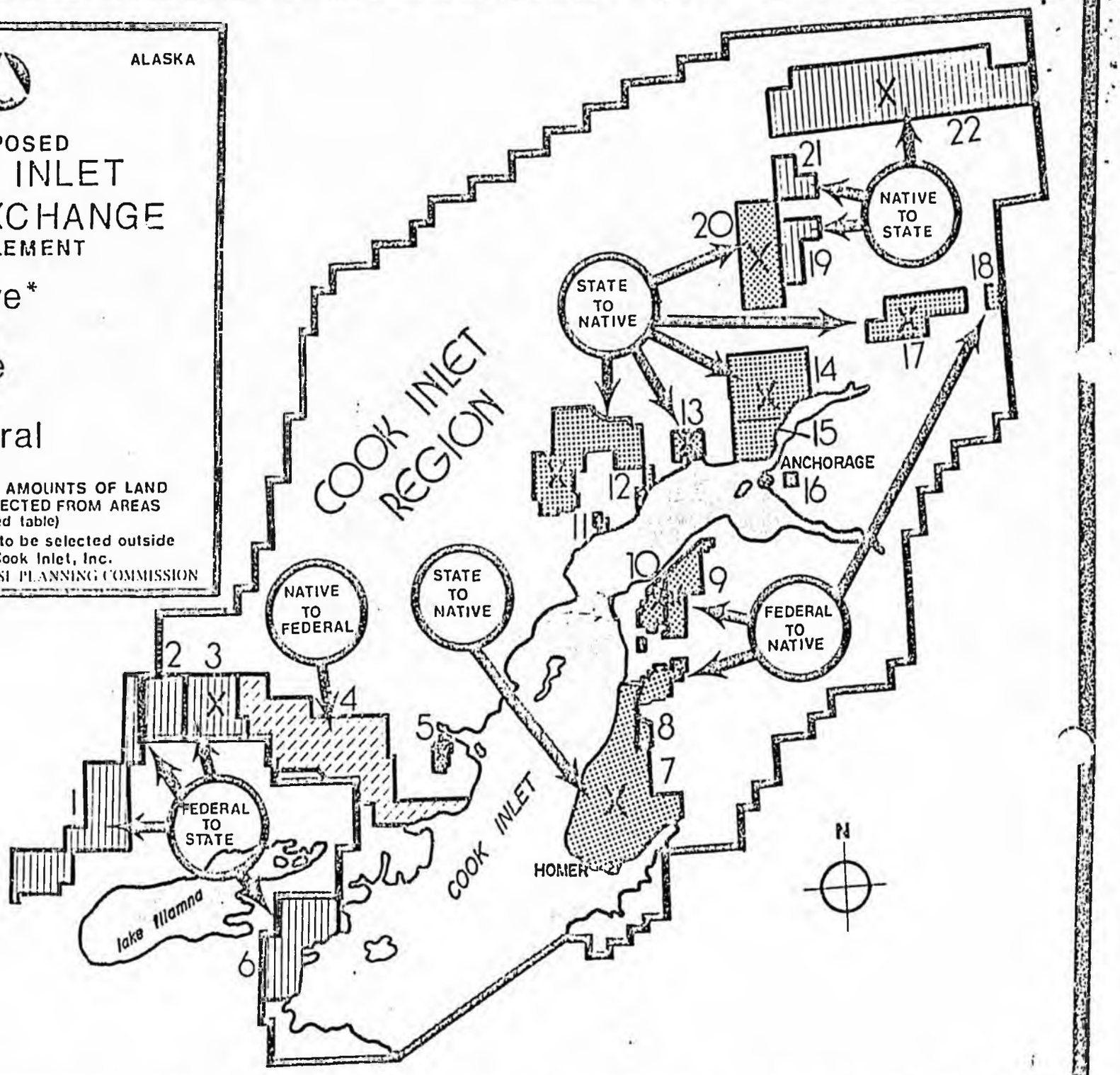

PROPOSED COOK INLET LAND EXCHANGE

Map No.	Area Name	Approx. Area Size in Twnshps.	Approx. Number of Townships to be Selected, and Notes
1	Nushagak-Chulitna	19	23-27 - depends on village lands relinquished in Lake Clark. Additional from d-2.
2	Tutna Lake	7	7*
3	Koksetna	7	See No. 22
4	Lake Clark	28	All village selections to U.S.
5	Tuxedni	2	.5 - plus road and port easement.
6	Kamishak Bay	13	13*
7	Kenai	25	5 - scattered sites from State land, subject to State guidance.
8	Tustumena	.5	.5
9	Moose Range	4)	3.6 to 9.6 - varies with other selections. Subsurface oil, gas, and coal only. Excludes existing production.
10	Moose Range	6)	
11	Nikolai)	16	13.5 - excludes Beluga and Nikolai gas fields.
12	Beluga)		
13	Alexander	2	Depends on area relinguished in Lake Clark. Probably less than .25
14	Knik-Willow	12	.19 - see note, area 7.
15	Point Mackenzie	4	.14 - see note, area 7.
16	Campbell Tract	.2	.2
17	Chickaloon	7	.2 - see note, area 7.
18	Matanuska Glacier	1	All U.S. interest.
19	Sheep Creek	4	4*
20	Kashwitna	10	1.7
21	Talkeetna River	3	3*
22	Susitna-Chunilna	36	1* (Chunilna) 12.4 - option here and area 3.

Area Name	Approx. Area Size in Twnshps.	Approx. Number of Townships to be Selected, and Notes
These not shown on map:		
Anchorage area	.1	Miscellaneous tracts if surplused.
Healy	1	1
Intra-Regional exchange pool	6	0-6 - from surplus or revoked U.S. reserves and unperfected land entries. Available for exchange only on acre/equivalent basis for extra regional selection.
Extra Regional	N.A.	Up to 29.6 - subject in part to exchange, appropriate village regional, U.S., and State agreement, and State %-strike provisions.

* These total 28 townships - only 26 to be selected.

THE COMMISSION'S ROLE

The Joint Federal-State Land Use Planning Commission for Alaska was created by Act of Congress in the Alaska Native Claims Settlement Act and by Act of the Legislature of the State of Alaska (A.S. 41.40.010). The primary goals of the Commission as established by law are to: (1) insure that the economic growth of Alaska is orderly and compatible with environmental values and the economic and social well-being of the State's residents; and (2) plan for the wisest and best use of Alaska's lands. The Commission is expressly directed to: (1) seek ways to avoid conflicts among the State, the Federal government, and Alaska Natives over the selection, use, and management of lands; (2) improve coordination between the State and Federal governments; and (3) recommend changes in laws, policies, and programs affecting land use and management in Alaska. The Commission has ten members, half of whom serve as Federal appointees and half appointed by the State of Alaska.[1/] Providing executive leadership are the Governor of Alaska or his designee as State Co-Chairman and a Federal Co-Chairman appointed by the President of the United States. The Governor is required by law to name an Alaska Native to, at least, one of the State seats on the Commission. A small staff, including planners, resource specialists, lawyers, and economists, supports the Commission in its deliberations.

The Commission as a body upon which State, Federal, and Alaska Native interests are represented and whose mandated intent is to promote cooperation and resolve conflicts among these major landowners, occupies a unique position from which to provide oversight on land trades and adjustments.

Commission Involvment in Cook Inlet Selection Problems

Section 17(a)(7)(B) of the Alaska Native Claims Settlement Act directs the Commission to make recommendations concerning proposed land selections by Native village and regional corporations. Pursuant to this and other authority provided in Section 17(a) of the Act the Commission has been involved since 1972 in seeking a satisfactory solution to the land selection problems which have confronted Cook Inlet Region, Inc., and its constituent villages.

In general and specific recommendations the Commission recognized the necessity of providing lands of "similar in character" to Cook Inlet Region, Inc. to fulfill their entitlement under the Claims Act. Constraints imposed by the Claims Act prohibit selections of State lands, selections within the Kenai Moose Range, selections out of the Cook Inlet Region, or selections within a two-mile buffer zone of first class municipalities. In recognition of these constraints and problems they posed for fulfillment of the Native entitlement, the Commission recommended on March 29, 1974 that acreage in the Lake Clark area be withdrawn for Cook Inlet Region, Inc. When it appeared that Congressional amendments to the

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1/ Two vacancies, one State seat and one Federal seat, currently exist on the Commission.

Claims Act would remove most of these prohibitions and that negotiations between the Department of the Interior and Cook Inlet Region, Inc. also included the participation of State government, the Commission on October 30, 1975 communicated its unanimous support of the approach taken by the negotiators. The Commission set out the premises of its support of the concept and cautioned that technical problems required solution and that the views of neighboring regions and the full participation of Cook Inlet villages be obtained. (Copies of the letters communicating the actions cited above, as well as a detailed summary of Commission involvement in the Cook Inlet land selection problems, are included as Appendix A.)

Public Law 94-204 was enacted by Congress January 2, 1976 incorporating the agreement reached through the negotiations entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area." In its deliberations on the agreement, the House and Senate Resources Committees met in joint session on February 11, 1976, and passed a motion to request Commission review and report to the Legislature on the agreement.

The Commission's Review

In response to the Legislature's request, all staff were committed to an intensive compilation and analysis of land and resource data and legal issues. A special session of the Commission was scheduled for March 5 and 6. Data was solicited from all parties to the exchange, other Federal and State agencies, and the public. Transcripts of legislative and administrative hearings and minutes of legislative committee meetings on the proposed settlement were reviewed, together with testimony both supporting and opposing the settlement[2/] in order to assure that all major issues and questions would be addressed in the Commission deliberations. Data previously compiled in the Commission's Statewide Resources Inventory and research conducted in prior instances when the selection problems of the Cook Inlet Region have been considered by the Commission were reviewed. Staff presentations reflected multidisciplinary expertise and individual evaluations of alternatives to the proposed settlement.

Commissioners had the opportunity to review staff memoranda and information submitted from other sources prior to the meeting and to consult directly with the staff a day in advance of the meeting. Problems with the settlement were cited by staff, as well as benefits accruing to the settlement parties. At the meeting, comprehensive presentations were made by the lead negotiators of the Federal and State governments and the Cook Inlet Region, Incorporated. Commissioners posed questions on all major aspects of the proposed settlement to the negotiators. Each geographical area subject to the proposed exchange was examined.

2/ Written statements and documentation from Harold Galliett, David S. Jackman, and Bristol Bay Native Corporation. Copies of these statements and documents are included in the notebooks transmitted to the two Resources Committees.

PRIMARY CONSIDERATIONS

In evaluating the proposed land trade, the Commission considered how the wide variety of interests of different citizen groups affected by this trade had been accommodated. The Commission and the State have a responsibility to protect the interests of the 6,000 citizens of Cook Inlet as they strive to receive their rights from the Federal government under the Alaska Native Claims Settlement Act. At the same time, the interests of the citizens of the State as a whole, of which the Cook Inlet people are a part, must not be sacrificed. The effect of the trade on the State's overall economic well-being must be assessed and the rights of other Native regional corporations must be considered. The Anchorage area, which has been the center of the State's rapid population growth, has a need for close-in recreation space which must be considered, and plans for Anchorage's north/south runway and for a new State capital site must not be jeopardized by the trade. In addition to these and other factors which concern both the Commission and the State, the Commission has a responsibility to consider the national interest in Federal lands and in nationally and internationally important resources such as the Bristol Bay fishery.

Among the many different interests affected by the proposed trade, the Commission identified the following as primary considerations:

Overall Considerations

1. The decision on this proposal is not simply whether or not to approve this trade but, rather, whether this is the best of a range of congressional and judicial alternatives.[1/] One element is certain--Cook Inlet's entitlement under the Settlement Act to approximately 54 townships of land must be satisfied in some manner.

2. The negotiated approach embodied in this proposal represents a far better means of harmonizing conflicting interests than the other alternative means by which the Federal government might meet its obligations to Cook Inlet. Without a three-party negotiation, the transfer would be between the Federal government and Cook Inlet, and the State would have little or no input. Through the terms and conditions built into this negotiated proposal, checks and balances have been provided to insure that the interests of all parties are protected.

3. The cooperation of Federal, State, and Native interests to come to a mututally acceptable trade sets a healthy precedent for future land planning in Alaska. In the future, joint planning by the three major landowners within the State is essential if the massive redistribution of land tenure caused by the Statehood Act and the Alaska Native Claims Settlement Act is to be arranged into a satisfactory management pattern.

1/ Detailed in Appendix B.

4. This agreement involved a great deal of give and take by the parties involved. For example, Cook Inlet agreeded to take over half of its entitlement outside its own region in areas that are generally remote from the Cook Inlet people, and to accept Federal and State controls over land selection and use that would not be required under the regular provisions of the Settlement Act.

5. The proposal provides protection for the interests of Native corporations in other regions by giving both village and regional corporations veto powers over selections adjacent to and up to 12 miles from lands withdrawn for selection by Native corporations within the region.

6. State selections in the early years of Alaska statehood were concentrated in the area that was to become the Cook Inlet Region. By 1971, when the Settlement Act passed, the lowlands of the region were virtually all in State and private ownership except for Federal withdrawals such as the Moose Range and the military reservations. Given this situation, without the proposed settlement, and without State assistance and the State selected lands, there is little leeway within the Cook Inlet Region to satisfy Cook Inlet's entitlement to lands "of a charcter similar" to village sites.

Legal Considerations

1. The probability of protracted law suits is less under this proposal than under other alternative ways by which the Federal obligation to Cook Inlet could be fulfilled.

2. Most of the legal impediments to the proposed trade were removed by Public Law 94-204.[2/] The only remaining legal necessity to enable the trade is for the State Legislature to approve the conveyance of subsurface by the State government and to waive requirements for determination of equal value on a purely monetary basis.

3. The conflict between Anchorage's proposed north/south runway extension and park and recreation uses is recognized by all parties involved. This problem may be solved by the Federal process of surplusing Federal withdrawals which would eliminate land identified as needed for airport purposes from the parcel before conveyance to the State for park and recreation purposes.

4. All vested third party interests are protected by the terms and conditions of the proposed agreement. Lands made available for Native selections were in areas where there were already many private land holdings which will be protected.

2/ Detailed in Appendix C.

5. Approval of the proposed trade would assure the continuance of the 1972 settlement between the State and the Department of the Interior.[3/] Without this trade, the Cook Inlet Region will continue its litigation which challenges the 1972 settlement. A decision in favor of Cook Inlet would jeopardize approximately two-thirds of the State's existing land selections.

Land Use Considerations

1. Under the terms of the agreement, the State obtained powers to guide and control the selection process and to keep lands with particular values for recreation and other public purposes in public ownership. Similar planning powers would be unavailable to the State under the unnegotiated alternatives to this proposal.

2. The trade is designed to protect the large regions in Southcentral Alaska which have high values for public purposes.[4/] Ownership boundaries around such areas, for example, Lake Clark, Iliamna Lake, and the proposed Talkeetna State Park, have been drawn to establish workable management units.

3. Where possible, land ownership units have been consolidated and simplified. For example, blocks of State owned land are expanded in the Susitna Valley and west of Iliamna Lake, and village holdings on the west side of Cook Inlet have been consolidated.

4. This trade provides substantial protection for the Kenai National Moose Range, which has high public value as a prime recreation area for the State's rapidly growing population. Other proposed alternatives could have conveyed large areas of Moose Range surface ownership or producing oil fields to Cook Inlet.

5. Native villages will receive lands closer to village sites than under existing selection withdrawals which were far removed from villages. Such lands generally have more use and value for village purposes.

6. The proposed trade will enable Cook Inlet to acquire lands that are suitable for private land use purposes. Lands which have currently been made available for Cook Inlet selection are primarily mountainous areas which would have little or no value for a private corporation.

7. The trade retains proposed capital site areas in State ownership.

8. The trade will accelerate and assure the transfer to the State of prime areas for recreation and public purposes in the urban area of the Anchorage bowl. Of special concern to the Municipality of Anchorage is the Campbell tract. The agreement specifies that this

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3/ Copy of 1972 agreement included in notebook submitted to the Resources Committees.

4/ Detailed in Appendix D.

tract will be managed in accordance with a generalized land use plan already proposed for the area. If and when other Federal tracts, i.e., Point Woronzof, Point Campbell, and Goose Lake, are declared surplus for Federal use, they, also, will be conveyed to the State.

Economic Considerations

1. Because of the nature and complexity of the trade, and the very real difficulties in applying ordinary valuation methods, broad economic standards must be used in judging the trade. These standards must include the Commission's mandate to make recommendations relating to orderly economic growth compatible with other social, cultural, and environmental values. The standards must also include an assessment of the impact of the trade on the future fiscal and economic well-being of Alaska.

2. The economic losses that the State will purportedly incur as a result of the trade appear to be exaggerated. When highly speculative gross asset values are converted to "net present value" of probable foregone revenues, the State's expected losses are minimal.5/

3. The future fiscal viability of the State is largely unaffected by the trade. This is so for a variety of reasons, including the following:

   a. Economic development is at least as likely to occur if resources are in private ownership as would be the case if the State retained ownership of the resources. Thus, State revenues from corporate income taxes, personal income taxes, and most other tax [illegible]rces will be at least as great under private resource [illegible]rship as public. Economic rents that might possibly b[illegible] foregone (in the form of royalties) can for the most part be recouped through the State's power of taxation.6/

   b. It is probable that revenues foregone under the proposed trade will constitute only a minute fraction of total State revenues in the future. Anticipated revenues in the 1990's, amounting to several billion dollars annually, dwarf potential foregone revenues. For example, expected coal royalties from a proposed development in the Beluga fie[illegible]ds are only about 1.5 million dollars per year, which amounts to about 0.03 percent of projected total State revenues in 1990.

4. The general level of economic activity will be largely independent of resource ownership. In fact, if Cook Inlet Region is assumed to be at least as development oriented as the State, then total economic activity can be expected to increase.

5/ Detailed in Appendix E.

6/ Detailed in Appendix E.

5. Economic benefits to Cook Inlet will, in part, be redistributed to other regional corporations in the State under the provision in the Settlement Act which requires that 70 percent of the revenues from resource development by any one Native regional corporation be shared with all the regional corporations.

6. The proposed trade protects the State's Swanson River petroleum revenues by excluding all producing oil fields within the Moose Range from conveyance to Cook Inlet.

RECOMMENDATIONS

Cook Inlet Trade

After its consideration of the major issues and aspects of the proposed settlement, Commissioner James Hurley moved and Commissioner Celia Hunter seconded "That this Commission recommend to the Joint Resources Committee of the Alaska Legislature that appropriate legislation be passed authorizing the Cook Inlet settlement under the terms and conditions of P.L. 94-204." The motion carried unanimously, with Federal Co-Chairman Burton W. Silcock, Acting State Co-Chairman George W. Roger, and Commissioners James J. Hurley, Celia M. Hunter, Phil R. Holdsworth, Joseph H. FitzGerald, John W. Schaeffer, and Richard A. Cooley voting "aye".

The recommendation made, the Commission proceeded to address guidelines for future land exchanges. Summarized below are tentative general guidelines accepted by the Commission.

Future Land Trades

It has become increasingly apparent that a series of trades and exchanges will be necessary to adjust land ownership patterns established by the Statehood Act to enable sound land use planning and management by all involved. Both the Commission and members of the State Legislature have recognized the necessity for legislation which would guide and facilitate the exchange process. With clearer ground rules, much of the complexity and difficulties experienced in the Cook Inlet land trade could be reduced.

The Cook Inlet experience offers an excellent test case which should be carefully studied in developing guidelines for future land trades. The basic elements for such exchange legislation, as suggested by the Cook Inlet experience, are as follows:

1. Land trades should further the establishment of land ownership patterns that will enable planning and management to foster the wise use and disposition of land and land resources.

2. Land trades should result in an equitable exchange of values between the parties involved. In determining equity, intangible values such as sound land use and management as well as social and economic benefits should be included.

3. Trade procedures should include consultation with affected local governments and relevant State and Federal agencies, as well as a specific program for public consultation.

The Commission plans to analyze the Cook Inlet trade process in detail, as well as to review land trade and exchange procedures utilized elsewhere. On this basis, the Commission will make recommendations for legislation that would establish guidelines for future land exchange.

APPENDIX

Appendix A

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 3, 1976

MEMORANDUM

TO: Commissioners

FROM: Esther C. Wunnicke

SUBJECT: Commission Involvement in Cook Inlet Land Selection

Section 17(a)(7)(B) of the Settlement Act directs the Commission to make recommendations concerning proposed land selections by Native village and regional corporations. Pursuant to this and other authority provided in Section 17(a) the Commission has been involved since 1972 in seeking a satisfactory solution to the land selection problems which have confronted Cook Inlet Region, Inc., and its constituent villages.

.....August 16, 1972. The Commission urged the Secretary to accord the deficiency land needs of Native organizations priority in every instance over 17(d)(1) and 17(d)(2) withdrawals.

.....March 6, 1973. In addressing Chugach Native deficiency problems the Commission adopted the following general principles:

a. land withdrawals made under Section 11(a)(3) for possible regional selection should include any lands remaining after village selections from the same areas.

b. the "similar in character" standard should apply to both regional and village deficiency withdrawals made pursuant to Section 11(a)(3).

.....March 7, 1973. Formula 3 adopted for calculating gross acreage of village and regional deficiency.

.....August 2, 1973. National interest d-2 use recommendations.

.....August 6, 1973. Commission stated that none of its recommendations concerning the use of d-2 lands should be construed so

as to preclude necessary deficiency classifications. Finally the Commission requested that the Secretary exercise his administrative authority by designating needed deficiency lands prior to transmittal to Congress of recommendations regarding d-2 withdrawals.

.....September, 1973. Staff presented resource summary to Cook Inlet on lands available for possible selection.

.....January 10, 1974. Commission provided Secretary with an interim staff report on Kenai Moose Range. Second study completed and transmitted April 16, 1974.

.....March 29, 1974. Recommendations that acreage in Lake Clark area be withdrawn for Cook Inlet deficiency - based on land status problems and legal constraints in ANSCA, e.g.

no out-of-region selections
no administrative authority to open Moose Range lands to regional selections
no availability of State lands for regional selection
2-mile buffer zone

.....June 6, 1974. Small withdrawal review.

.....August, 1974. At the request of Cook Inlet Region, Inc., the Commission prepared an analysis of lands which could be withdrawn by the Secretary pursuant to Section 11(a)(3) to satisfy the deficiency entitlement of that region.

.....April 29, 1975. Staff memorandum was prepared by Counsel setting out pending Federal legislation. The memo regarding Cook Inlet land exchange set out these considerations:

-appeal of adverse District Court ruling vs. CIRI
-commencement of discussions with State
-Moose Range and Lake Clark townships for selection
-selection of small scattered tracts - Campbell and Woronzof
-lands in Eklutna withdrawals
-suspension of land selection rules requiring odd-odd and even-even regional selections

.....May 2, 1975. Commission meeting. Motion that the Commission express an encouragement to discussions presently underway between the State, CIRI and other entities that may result in better overall solutions in terms of overall management in the Cook Inlet Region, and that the Commission resources in terms of technical assistance be made available to these discussions. Also that additional time be provided to Cook Inlet; passed by general consensus.

.....October 24, 1975. Commission meeting. Michael C.T. Smith, Director of the State Division of Lands, briefed the Commission on the present situation with respect to Cook Inlet Region, Inc. Motion by Silcock, second by Holdsworth, to endorse the land trade concept in its present status and to communicate the Commission's endorsement to the House and Senate Interior and Insular Affairs Committees; motion passed unanimously.

Elements of that briefing are as set out in 10-2/3-75 "Opening Statement" prepared by Department of Natural Resources.

.....October 30, 1975. Recommendations were made to the House and Senate Committees on Interior and Insular Affairs stating that the Commission had considered the tentative agreement arrived at between Cook Inlet and the State of Alaska, and was in unanimous support of the approach taken in the proposed agreement. The premises for Commission approval of the concept of the agreement are set out as: the insufficiency of lands to meet deficiency requirements; disagreement with the District Court's ruling; improved land management units through the consolidation of ownership; and lessened impact of private land ownership in the Kenai National Moose Range. In supporting the agreement the Commission did not minimize the technical problems which needed to be overcome prior to final adoption, and the Commission urged that the views of neighboring regions be obtained and that the full participation of Cook Inlet village corporations be assured.

.....February 6, 1976. At a regular Commission meeting, after a brief explanation of P.L. 94-204 and the corresponding "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" the Commission, by unanimous vote, authorized the State Co-Chairman to support state law reform concerning land trades on behalf of the Commission. Co-Chairman Jackman advised that he would be testifying before House and Senate Natural Resources Committees of the Alaska Legislature.

.....February 11, 1976. Co-Chairman Jackman was asked by the House and Senate Natural Resources Committees to convey to the full Commission their request for Commission review and submission of a report of its findings on the proposed Cook Inlet land trade.

.....February 17, 1976. Confirmation of the legislative request was sent to the Commission by the President of the Senate together with a request that the Commission expedite its report as much as possible to enable the Alaska Legislature to act within the times established in the agreement.

.....February 23, 1976. Formal request of the Senate Resources Committee for Commission assistance was transmitted by Committee Chairperson, Kay Poland. Concern of the Committee about relative values of lands given and received, impact on future land selections by the State, and long term effects of the amendment of Section 6(i) of the Alaska Statehood Act was expressed.

.....March 5, 6, 1976. A Commission meeting to consider the Cook Inlet land trade and to make recommendations to the Joint Senate and House Resources Committees was scheduled.

APPENDIX B

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

October 30, 1975

Honorable Henry M. Jackson
Chairman
Senate Committee on Interior
and Insular Affairs
Attn: Steve Quarles
3106 Dirksen Building
Washington, D.C. 20510

Dear Chairman Jackson:

It is our understanding that the Interior Committee will soon commence its markup of certain proposed amendments to the Alaska Native Claims Settlement Act. With this in mind, I am writing to communicate the Commission's strong support for amendatory legislation relating to the land entitlement of Cook Inlet Region, Inc., and its constituent villages, as such legislation is described in the recently announced agreement between Cook Inlet and the State of Alaska.

For the past three years, the Commission has been actively involved in efforts to resolve the land-related problems which have confronted Cook Inlet and its constituent villages. These efforts have taken the form of technical assistance to the regional corporation and, more recently, to the State of Alaska, and recommendations to the Secretary of the Interior with respect to the location and quantity of withdrawals needed to help satisfy the requirements provided in Section 11(a)(3) of the Settlement Act. Most recently, the full Commission has considered the tentative agreement arrived at between Cook Inlet and the State of Alaska. On the basis of this consideration, which took place at a Commission meeting held on October 24-25, 1975, I have been authorized to communicate our unanimous support for the approach taken in the proposed agreement.

The Commission's position is premised on the following principal considerations. First, in our opinion, a significant portion of the acreage presently withdrawn for possible selection by Cook Inlet does not meet the qualitative criterion provided in Section 11(a)(3) of the

Settlement Act. In arriving at this conclusion, we are cognizant of the Federal District Court's ruling in Cook Inlet v Morton, and are constrained to disagree with that portion of the ruling which relates to compliance with the criteria specified in Section 11. Second, the land status pattern in the Cook Inlet region, which encompasses large Federal withdrawals and significant acreage in State and private ownership, indicates that it would be very difficult for Cook Inlet to obtain a satisfactory land entitlement in the absence of the land exchanges and other mechanisms provided in the pending agreement. Third, implementation of the agreement would greatly improve land management within the Cook Inlet region by consolidating Federal, State, and Native ownership in areas which aptly reflect the interests of the various parties. Thus, for example, the agreement would result in Native ownership of certain areas on the Kenai Peninsula which, by virtue of their location, soils, and other characteristics, appear suitable for private settlement and development. Similarly, the State would obtain additional lands in the Bristol Bay watershed, which is of critical importance to the State for its fishery and recreational values, and the Federal government would be assured of a viable management unit in the Lake Clark area, which has been proposed for national park status pursuant to Section 17(d)(2) of the Settlement Act. Improved management and ownership patterns would also result in other areas of the Cook Inlet region, including the Talkeetna Mountains and the Kenai Peninsula. Fourth, the proposed agreement would lessen the impact of private ownership on the Kenai National Moose Range by reducing the total acreage that might otherwise be transfered to Native corporations and by requiring that certain protective measures be taken in a significant portion of the lands that would be conveyed. In short, implementation of the agreement would permit the creation of rational patterns of land management and ownership which reflect the varied interests of the parties involved. Neither the administrative nor judicial alternatives afford the flexibility which is necessary to accomplish this result.

In supporting the proposed agreement, the Commission does not mean to minimize the technical and other problems which must be overcome prior to its final adoption. For example, there are certain legal issues which must be addressed. However, the research conducted by our staff and more extensive work performed by attorneys for Cook Inlet and the State indicate that solutions to these problems do exist. Moreover, since the agreement would authorize Cook Inlet to select lands within the boundaries of certain other regional corporations, the views of those corporations must be considered with great care, and an effort must be made to insure that in the process of improving land ownership and management patterns in the Cook Inlet region, we do not jeopardize

the opportunity to create sensible patterns in other areas of the State. In addition, full participation on the part of Cook Inlet's constituent villages and groups will be required, for the agreement calls for the relocation of certain withdrawals made for their benefit. We believe that the participation and cooperation of all of the parties to the agreement and other affected Native corporations will create an atmosphere in which possible problems can be resolved and the objectives of the current proposal can be successfully achieved.

Thank you for your consideration of this correspondence.

Sincerely,

Burton W. Silcock
Federal Co-Chairman

cc: Senator Ted Stevens
Senator Mike Gravel
Royston C. Hughes, Assistant Secretary, Program Development and Budget
Ken Brown, Legislative Counsel, Department of the Interior
Guy Martin, Commissioner, State Department of Natural Resources
Michael C.T. Smith, Director, State Division of Lands
Sam Kito, President, Alaska Federation of Natives
Roy Huhndorf, President, Cook Inlet Region, Inc.

Alternatives to Land Settlement	Possible outcomes, remedies and restrictions	Effect on: State	Federal	Native
1. Rejection of current offer.	1. Cook Inlet goes back to Court and loses:			
	a) Secretary does nothing to alter current land status.	Retains currently held lands & resources but could potentially lose control of very limited unselected lands near Anchorage.	Retains currently held lands & resources. Lake Clark management unit proposed as park-lands reduced in size or lands must be purchased from village corporations to maintain proposal dimension under current agreement.	Retains currently held lands & resources Because of the nature of current holdings potential more intensi development would be required to establish same return as is possible with better lands obtained through the trade.
	b) Secretary offers alternative lands to Cook Inlet.	Retains currently held lands & resources. Could potentially lose control of some lands near Anchorage & could be forced to set aside some additional State lands for recreation & habitat if Moose Range land losses severely restrict recreational opportunities. Potential time delay if attempt is made to transfer Moose Range lands. Loss of oil & gas revenue.	Because of limited lands available of "like kind" within region may be forced to attempt to transfer lands within Moose Range. Serious legal questions over Secretary's ability to transfer Moose Range lands for these purposes. Other Federal lands within region of much lower quality even in Lake Clark d-2 areas or any of the remaining d-1 areas.	Possible gain of additional better quality lands. However without going out of region, lands available to Secretary are very limited & will probably include additional Moose Range lands which could delay settlement & could result in Cook Inlet gaining nothing.

Appendix C

Alternatives to Land Settlement	Possible outcomes, remedies and restrictions	Effect on: State	Federal	Native
	c) Congressional action which does not neutralize the "1972 memorandum of agreement."	State would retain lands currently patented "T.A.'d" or in patent pending status. Could potentially lose control of small amount of unselected lands near Anchorage. State could be forced to set aside some additional lands for recreation and habitat if Moose Range losses are incurred & if same general level of recreational opportunities are to be maintained. Could lose oil revenue from Swanson River field.	Because of limited lands of like kind available it is likely that Congress would be forced to transfer lands from the Moose Range & from the Lake Clark d-2 areas. Federal government might lose oil revenues.	Cook Inlet would gain much better quality lands, however, it might be difficult to give full entitlement in lands of "like kind." Natives would probably receive oil royalties & other minerals in the Moose Range.
	d) Congressional action which in effect neutralizes the "1972 memorandum of agreement."	The ramifications of this type of action to the State are enormous. Those State lands which were put into a selection pending status could (unless stipulated by Congress) all be subject to reclassification throughout the entire State. The Secretary could be forced to reclassify substantial amounts of this land into d-2 status or Native deficiency forcing the	The breakdown of the "1972 agreement" will leave the Secretary open to suits which could force him to reclassify much of the land currently under State selection into d-2 status. The whole process of determining "national interest" lands could be reopened resulting in a high cost both in terms of time & money.	Cook Inlet would gain substantially particularly if out-of-region selections are allowed. They could possibly pick-up lands within the Moose Range as well as being able to select out-of-region lands which are currently under State control.

Alternatives to Land Settlement	Possible outcomes, remedies and restrictions	Effect on: State	Federal	Native
		State to reselect & redevelop its selection patterns. This could also make it more difficult for the State to select its full entitlement by the 1984 deadline. The State could lose some of the best "settlement lands" available to them.		
2. State makes a settlement which involves State & CIRI only. (This exchange would probably do little to affect Cook Inlet's economic status, merely transfer to them lands of "like kind & character.")	1. Primary constraint is meeting equal value criterion.	Even considering the problems of determining "equal value" (see Tuck memo). The State would be hard pressed to exchange land with Cook Inlet on an acre for acre basis which would probably end in the State receiving more land of average lower value than that currently held. Legal questions resolved within State courts.	This arrangement would not affect the Federal government land status.	Cook Inlet would probably receive considerably less acreage than their current entitlement. A few more development options might be open to them, however, their near-term economic position is likely to remain unchanged.
3. Settlement between Federal State, and Cook Inlet. (Modifications of current agreement.)	1. Possible area changes. a) Force Cook Inlet to select within their own region.	Lands might not be sufficient to avoid potential State selections completely. Could have the effect of speeding completion of the settlement however, thereby	Federal government might be forced to give up additional acres in Moose Range or possibly some d-2 lands to compensate Cook Inlet for selection of "like	Cook Inlet would improve their position over a no-agreement position although depending on the choices available for out-of-region selections they could

Alternatives to Land Settlement	Possible outcomes, remedies and restrictions	Effect on: State	Federal	Native
		allowing the State to complete its selection in other regions.	kind" lands within the region.	possibly be worse off than under the current agreement. The time taken to complete the settlement might be shortened from current agreement.
	b) Do not allow Cook Inlet to select land within the Moose Range.	Because of the high values present on the Moose Range lands pressure will be on State to make additional State lands available to compensate for the high value lands the Natives would lose.	The same problem exists here as with the State. The high values on the Moose Range could force the Federal government to increase the amount of land available to Cook Inlet to compensate for the loss of Moose Range lands. If values received by Cook Inlet & the Natives are not an issue, there is probably sufficient land within the region to fulfill the strict ANCSA requirements for Cook Inlet.	Cook Inlet, unless compensated by a selection of large blocks of land would probably lose value under this situation, at least as far as known. Total value could be held at the same level if the region were allowed more land outside of the region, however, it would be difficult to swap on this basis completely within the region.
	c) Exclude Beluga area from Native selection.	This alternative would protect currently selected coal reserves in the Beluga area. The total value of the loss to the State is likely to be small since the State would retain sufficient taxing authority to tax most of the "economic	This alternative could bring additional pressures on the Secretary to release other equal value lands for Cook Inlet. Since the lands are limited, this could mean either more land, higher value land as in the Moose Range, or	Cook Inlet could lose one of its prospects for near term income. This could accelerate the rate at which they develop other lands. They are also likely to push for additional income-generating lands in other areas.

Alternatives to Land Settlement	Possible outcomes, remedies and restrictions	Effect on: State	Federal	Native
		rents" that would be associated with the field.	possibly more land outside of the region.	
	d) Allow CIRI to select more land outside of the region.	State will lose additional lands and control of lands outside of region could also be forced to select lower quality lands in other regions.	This should not affect current d-2 lands; however, additional lands would have to be made available for CIRI selection. Total lands held in other regions would decline.	Cook Inlet could gain some additional "high quality" lands outside of region which could improve their economic viability.

Appendix C

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 4, 1976

MEMORANDUM

TO: Commissioners

FROM: Esther C. Wunnicke, Attorney Advisor

SUBJECT: Legal Issues in Cook Inlet Land Trade

At the time the Commission made detailed recommendations to the Secretary of the Interior of lands to be made available for deficiency selections by Cook Inlet Region, Inc., in March, 1974, the following legal constraints applied:

- out-of-region selections were prohibited by Section 12(c)(3) of the Alaska Native Claims Settlement Act;

- selections in the Kenai Moose Range were prohibited by apparent Congressional intent in the Settlement Act to respect then-existing boundaries of Federal withdrawals and prohibit Regional selections within them. Qualified villages located within the range are entitled to village selections within the range;

- the agreement between the State of Alaska dnd the United States of September 1, 1972, confirmed selection by the State of Alaska of lands in the Cook Inlet Region making them unavailable for Regional selection;

- Section 6(i) of the Alaska Statehood Act prohibited conveyance by the State of subsurface title on pain of forfeiture to the United States;

- no selections were allowed Native corporations within a two-mile buffer zone of first class municipalities as provided in Section 22(1) of the Settlement Act.

The above constraints were addressed in the Congressional enabling legislation, P.L. 94-204, January 2, 1976, and the remaining legal barrier to the completion of the proposed agreement is premised on provisions of State law.

A.S. 38.05.125 mandates the reservation of mineral rights to the State in any deed of State land, except for land originally acquired by purchase, exchange, condemnation, gift, excheat, or foreclosure. Most lands in the exchange were obtained by the State as selections under the Alaska Statehood Act. Division Order No. 121 which further defines Alaska policy in this regard also states:

> The State shall retain all mineral rights. The other party to the exchange may transfer or retain the mineral rights. In no event shall the mineral estate be contemplated in equating the value of the respective parcels.

A.S. 38.95.060 provides for exchange with Native corporations created under the Alaska Native Claims Settlement Act. Subpart (b) of that Section provides that exchange "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 properties exchanged."

This proposed settlement may be distinguished from exchanges contemplated under the Alaska Native Claims Settlement Act. Exchanges of this magnitude and, particularly, exchanges before title had been obtained by Native corporations had not been considered previously. Although it is arguable that "equal value" in the economic sense need not be required in this exchange and that since the conveyance by the State is to the United States to whom it would forfeit the lands anyway if a reservation of mineral estate were not made, it would be well for the State Legislature expressly to waive the application of A.S. 38.05.125 and A.S. 38.95.060 in any legislation approving the participation of the State of Alaska in the proposed exchange.

The Commission has had the benefit of the opinion submitted to the Senate Resources Committee by Mr. Berrier, Director of Legal Services of the Legislative Affairs Agency, and reiterates the following portion of that opinion:

> Any specific legislation should (1) contain recitals relating to the Cook Inlet Land Trade and what the legislature intends to accomplish by approval of the land trade; (2) a specific waiver of the provision of AS 38.05.125 since this is clearly the major impediment existing currently; (3) a specific waiver of the equal value exchange requirement contained in AS 38.95.060. While arguably this equal value requirement would not apply in any event, the values on both sides of the transaction are of such nature that appraisals would be complex and subject to substantial dispute....

Other legal issues which have been raised apparently need only clarification or further agreement of the parties. These encompass such things as:

Restrictions on Point Woronzof, Point Campbell, and Goose Lake titles for recreational purposes. These tracts will not be available until surplused by the Federal government and it appears that any conflict, particularly that of the use of portions of the Point Woronzof tract, for airport purposes, may be solved by excision of particular sites before surplusing and conveyancing. A letter from Deputy Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior, chief negotiator for the Federal government, addressed to Alaska Attorney General Avrum Gross speaks to this issue.

Mental Health lands included in earlier tentative agreement among the parties for conveyance by the State of Alaska have been removed from the agreement. These were Mental Health lands in the Beluga area. The trust status of any Mental Health lands which may be included in pool areas in the exchange dictates that the State either use its blocking power to prevent selection of these trust lands or that the State assure that a fair exchange is made for other lands of equal value for Mental Health funds.

The status of Port Alsworth as a group under the Alaska Native Claims Settlement Act and its entitlement to land which will become part of a d-2 proposal for National Park purposes remains to be resolved. Legal staff has prepared a memorandum on this issue.

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 4, 1976

MEMORANDUM

TO: Commissioners

FROM: Richard J. Stenmark, Natural Systems Analyst

SUBJECT: Cook Inlet Region Land Settlement
Land Use and Planning Implications related to
Existing and Proposed Federal and State Reserves

Lake Clark Management Units:

The proposed land settlement helps to define boundaries of the Lake Clark management unit and provides opportunities to enhance the unit for conservation, preservation, and public recreation purposes by providing for:

1. Greater Federal retention of lands in public ownership along the middle section of Lake Clark, at Kontrashibuna Lake and its scenic valley, and in the connecting lands between the Kontrashibuna drainage and Chinitna Bay on the Cook Inlet coast.

2. Relinquishment of certain Native land selections along the middle section of Lake Clark, and around Kontrashibuna Lake so more of these important recreation lands remain in public ownership.

3. Sets the stage for possible future Federal acquisition or consolidation of village selected lands between Chinitna Bay north to Harriet Point subject to village consent. Acquisition might be by purchase or exchange.

The settlement also helps to clarify Federal and State interests and concerns in the general area:

1. Nationally significant resources are recognized in the area by the Secretary, CIRI, and the State.

2. Management of this area should be flexible and recognize the scenic, recreational, and inspirational resources that should be preserved, as well as State and local interests, including subsistence and sport hunting.

If the aforementioned public/private land adjustments were not made now as part of the Cook Inlet land settlement, it seems likely that the adjustments would be sought by the Federal government through exchange of lands involving lands elsewhere in the State, or possibly by purchase. Basis for this probable action is that many people believe these lands have important public values and are an integral part of the Lake Clark management unit whether it ultimately becomes a park, preserve, or whatever.

Past actions or recommendations by the Federal-State Land Use Planning Commission or others regarding all or portions of the area include:

1. Recognition by Interior agencies and the Forest Service of national interest values.

2. F-SLUPC land use recommendations that addressed the recreational, fishery, subsistence, mineral, and other values of the area in August, 1973.

3. Lake Clark National Park proposal by the Federal government in December, 1973.

4. A preliminary proposal in November, 1975, by the State of Alaska for Alaska Resource Lands unit.

5. A tentative proposal by the Federal-State Land Use Planning Commission for a national preserve unit within the National Park System.

The proposals in items 3, 4, and 5 did not include the area proposed to be added to the Lake Clark unit by the Cook Inlet Settlement, partly because of the lack of settlement of the Cook Inlet Region Natives' entitlement.

Iliamna Lake Management Unit:

Several factors may be relevant to this management unit and how it relates to the Cook Inlet Region land settlement. An Iliamna National Resource Range was proposed by the Federal government which includes lands in the vicinity of Iliamna Lake and in the Nushagak River drainage, and was to be a unit of the National Wildlife Refuge System. The area is also of considerable State interest.

Though a variety of values are present within the area, the dominant values are generally considered to be the fisheries and fishery habitats. Sport trophy fishing opportunities are recognized as exceptional. Spawning habitats, especially in streams entering Iliamna Lake, are perhaps the most important element related to the Bristol Bay commercial salmon fisheries.

Significance of the Bristol Bay commercial fisheries is assigned to local, State, national, and international levels.

During bargaining of the land settlement, the State has apparently sought to strengthen its presence in the general area but has ended up primarily with lands in the Nushagak drainage with lesser fishery and recreation values. A position has apparently been taken by Interior to retain as much of the most important lands and waters of the proposed range in a management unit in Federal ownership for fishery and other values. Several reasons could exist for this. One may be related to United States involvement in North Pacific international fishery treaties and any commitment conceived from those treaties regarding protection of habitat used by fish involved. Another reason probably considers the quality and significance of this resource area and since it is the heart of a proposal before Congress, the Department should not usurp the right of Congress to consider the area and provide for its disposition.

Proposed resource range lands that are involved in the proposed land settlement appear to be less critical lands and waters. They tend to round out or complement previous State selections and interests in the general area.

Past discussion by the F-SLUPC and others has recognized the changing land ownership pattern in the Iliamna Lake vicinity and suggested that perhaps there is merit in the lands adjoining Iliamna Lake going into State ownership and administration. This is a possible future for these lands but one not assured.

There are two additional aspects regarding this area. The Bureau of Land Management has had a long-time interest in these lands and did classify the area for Federal retention prior to the ANCSA. Management of the proposed resource range was to involve both BLM and the Fish and Wildlife Service. However, recent action in Congress regarding wildlife ranges, indicated an overwhelming concern that units of the National Wildlife Refuge System be administered directly by the Fish and Wildlife Service.

How these various factors will affect Federal and State interests in the area and ultimate disposition of the lands is only conjectural at this time.

Kenai National Moose Range

The moose range has been the subject of previous studies by the F-SLUPC related to the Cook Inlet Region, Inc., land settlement, and Kenai Borough requests for land. In general, the range has been viewed as an extremely important public reserve because of its varied recreational opportunities, wilderness values, wildlife, and habitat values, and for certain subsurface mineral resources. Its recreational attributes are particularly important because of the relative proximity to large population areas of the State. Federal-State Land Use Planning Commission's opinion regarding the range was essentially to minimize any intrusion into the range in terms of land transfers that would significantly affect key values.

The question raised in the case of this proposed land settlement is, does the intrusion into the moose range to help satisfy CIRI's entitlement seriously affect the values and purpose of the range? This can be viewed by looking at the regional interests only or in conjunction with the village selections that will also remove certain lands along the western edge.

From previous analysis information, it appears the combined intrusion will not significantly and adversely affect the long-term viability of the range in most respects. Village selections are subject to the laws and regulations governing use and development of the moose range.

Surface estate lost to the Regional Corporation at the west end of Tustumena Lake can be developed in a manner complementary to values of the lake. Sufficient restrictions in this regard appear to exist.

Extraction of subsurface minerals at some future time will be in areas of village selection, where development has occurred, or is expected to occur and there are restrictions on the manner of extraction. A problem that might occur in this regard would be subsidence of the land following removal of coal in the form of gas if and when coal extraction is authorized.

Critical habitats need not be lost. Only one (Elephant Lake--the smallest) of the areas identified as suitable for wilderness is involved, and the popular canoe trails are not affected except for a possibility along the Swanson River which need not occur through proper planning and appropriate easements.

It does appear, however, that any further intrusion into the moose range, than that provided by the agreement, could very well affect the quality or quantity of certain values, such as the number of moose that could be supported on the range.

Proposed Talkeetna Mountains State Park:

Through the proposed land settlement, the State would receive certain lands along the western edge of the Talkeetna Mountains which lie within a State park proposal now before the Legislature. Without the proposed settlement, these lands would likely be selected at least in part by Cook Inlet Natives. Acquisition by the State of these lands through purchase or exchange would be necessary to overcome land ownership and administrative problems.

A park or recreation area in this general section of the Talkeetna Mountains has been pursued the past few years. Hatcher Pass and the old Independence Mine area were focal points for this area. However, agricultural and mining interests in certain lands as well as other factors have caused a change in the current bill to help minimize some of the overlapping interests. Principal drainage in the current park proposal is the Kashwitna. Few lowlands would be in the park unless the lower Kashwitna River area is included. While the westernmost lowlands are State patented lands, the next range of lowland and valley entrance to the east is presently in regional deficiency classification for Native selection. These are the lands that would become available to the State through the settlement.

The value of these lands is that they would complete State ownership of all the lands within the proposed park.

These lowland areas are particularly important in this context in that this is the likely zone where access, camping, and other facilities might be developed for the general public visiting this section of the park. The Independence Mine area which is an interest area has certain use limitations. Other than the above values, the tract does not appear to possess any particular attributes differing from lands to the north or south. However, this aspect must be viewed in the context of the whole park proposal.

Proposed Far North Bicentennial Park:

Three areas within the Anchorage Bowl are very important to the State as well as the Anchorage municipality for recreation and other purposes. Point Woronzof, the Campbell Tract, and Point Campbell are prime recreational lands that will be utilized more and more in the coming years. The State Division of Parks views the Campbell Tract not only as an excellent urban recreation area immediately accessible to a growing community but also as an entrance to nearby Chugach State Park. This would create a complete unit, with recreational lands close to the people and park and wilderness somewhat further away. Lands adjoining Point Campbell and the Point Woronzof area are already used for recreational purposes.

These three areas are well located in that each one is in a different part of Anchorage.

The Campbell Tract has had considerable support as a municipal park to be named the Far North Bicentennial Park.

Appendix E

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 5, 1976

MEMORANDUM:

TO: Commission

FROM: Dr. Bradford H. Tuck, Economic Analyst

SUBJECT: Cook Inlet Land Trade: Some Economic Considerations

I. Introduction

Recent discussions surrounding the Cook Inlet land trade, including those presented in various testimony, in the newspapers, and in discussions at the Commission have raised a variety of economic issues. Many of these are related to a major concern of all parties, namely, that the lands involved including resources, are of equal value. A variety of State and Federal statutes require some treatment of the equal value issue in land trades, and Cook Inlet Region, Inc. is of course interested that it receives at least equal value. However, none of the statutes are explicit about how value is to be determined.

When the magnitude of the trade is taken into account and uncertainty surrounding lands and resources involved in the Cook Inlet trade are considered, the problems of determining equal value are extreme. Ordinary valuation procedures are simply inadequate.

The Commission must decide whether or not the trade meets standards implicit in the ANCSA; specifically that its recommendations are conducive to enhanced land use planning for Alaska and that its recommendations are designed to:

> "insure that economic growth and development is orderly, planned and compatible with State and national environmental objectives, the public interest in the public lands, parks, forests, and wildlife refuges in Alaska, and the economic and social well-being of the Native people and other residents of Alaska."

The State must also apply broad economic standards in attempting to evaluate the trade. Three major questions of economic significance should be addressed.

1. What, in real economic measures, is the State either gaining or losing in the trade?

2. What impact does the trade have on the future fiscal viability of the State?

3. What consequences does the trade have with respect to the future general economic well-being of the State?

An analysis of these issues and questions, and not a parcel by parcel evaluation, must be the basis for measuring the economic values of the trade.

II. Summary and Conclusions

A variety of issues of economic significance have been explored in relation to the proposed land trade. The conclusions can be summarized as follows.

1. Because of the complexities of the trade and the very real difficulties in applying ordinary valuation methods, broad economic standards must be used in judging the trade. These standards must include the Commissison's mandate to make recommendations relating to orderly economic growth compatible with other social, cultural, and environmental values. The standards must also include an assessment of the impact of the trade or the future fiscal and economic viability of Alaska.

2. The economic losses that the State will purportedly incur as a result of the trade are generally found to be highly exaggerated. When highly speculative gross asset values are converted to "net present value" of possible foregone revenues, the State's probable losses are minimal. In short, little, if anything of economic consequence, is lost.

3. The future fiscal viability of the State is largely unaffected by the trade. This is so for a variety of reasons, including the fact that the State power of taxation can effectively recoup possible economic rents given up in the trade. Also, the probable foregone revenues would constitute only a minute fraction of total State revenues.

4. The net effect of the trade on total economic activity is quite limited, and in any case, the bias would be toward increased activity. This is based on the assumption that CIRI is at least as economically development oriented as the State.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

Appendix B E

Federal-State
Land Use Planning Commission
For Alaska

733 W. FOURTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

March 5, 1976

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When the magnitude of the trade is taken into account and uncertainty surrounding lands and resources involved in the Cook Inlet trade are considered, the problems of determining equal value are extreme. Ordinary valuation procedures are simply inadequate.

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The State must also apply broad economic standards in attempting to evaluate the trade. Three major questions of economic significance should be addressed.

These three areas are well located in that each one is in a different part of Anchorage.

The Campbell Tract has had considerable support as a municipal park to be named the Far North Bicentennial Park.

III. The Problem of "Equal Value"

Value can be determined (at least theoretically) in a variety of ways, but for present discussion purposes, there are two methods that are of particular interest. The first of these relates to determining value on the basis of market comparisons or other transactions of a similar nature, and the second approach attempts to find a present value of some kind of expected future income from the lands and resources involved. The concepts are not mutually exclusive, but can be treated separately.

The market comparison approach is one frequently used in appraisals. The basic idea is to find other transactions of "like kind and character" which reflect what the present market is willing to pay for a particular parcel. When one attempts to apply this method to an evaluation of the Cook Inlet trade, many serious flaws emerge. The first is, quite simply, that the magnitude of the land parcels involved in almost all cases dwarfs anything that typically trades in the private sector. In other words, there are no comparable trades. Hence, we must look at much smaller parcels and then estimate what the effect of a significant increase in the quantity of land would have on the market clearing price, and this involves, in turn, some estimate of the rate of disposal of the lands and resources.

A second major problem in the present situation is that in most instances both surface and subsurface property rights are involved. While the surface resources are known to some degree, knowledge of the subsurface is much more limited. Thus, a high level of uncertainty surrounds any attempt at evaluating the subsurface resources. Even if subsurface resources were known, major problems in valuing these resources would exist. Specifically, we would have to know the net income stream that could be derived from the resource. At best, such estimates are highly speculative.

A much more fundamental problem with market comparison valuation lies in the theoretical underpinnings of this method. In essence, valuation by market comparison rests on the assumptions of pure competition; a large number of buyers and sellers, none of which is sufficiently large to effect the market price, and freedom of entry and exit from the market by all interested parties. If these conditions are not met, then the result is bargaining between parties holding some degree of monopoly control over the market and, as a consequence, over the resulting price. A price, or value, determined under these conditions does not necessarily reflect the "socially desirable" market clearing price that is the basis for market comparison valuation.

1. What, in real economic measures, is the State either gaining or losing in the trade?

2. What impact does the trade have on the future fiscal viability of the State?

3. What consequences does the trade have with respect to the future general economic well-being of the State?

An analysis of these issues and questions, and not a parcel by parcel evaluation, must be the basis for measuring the economic values of the trade.

II. Summary and Conclusions

A variety of issues of economic significance have been explored in relation to the proposed land trade. The conclusions can be summarized as follows.

1. Because of the complexities of the trade and the very real difficulties in applying ordinary valuation methods, broad economic standards must be used in judging the trade. These standards must include the Commissison's mandate to make recommendations relating to orderly economic growth compatible with other social, cultural, and environmental values. The standards must also include an assessment of the impact of the trade or the future fiscal and economic viability of Alaska.

2. The economic losses that the State will purportedly incur as a result of the trade are generally found to be highly exaggerated. When highly speculative gross asset values are converted to "net present value" of possible foregone revenues, the State's probable losses are minimal. In short, little, if anything of economic consequence, is lost.

3. The future fiscal viability of the State is largely unaffected by the trade. This is so for a variety of reasons, including the fact that the State power of taxation can effectively recoup possible economic rents given up in the trade. Also, the probable foregone revenues would constitute only a minute fraction of total State revenues.

4. The net effect of the trade on total economic activity is quite limited, and in any case, the bias would be toward increased activity. This is based on the assumption that CIRI is at least as economically development oriented as the State.

In the present trade we are faced with a situation in which the sheer magnitude of the lands involved (even with full knowledge of the quality of the lands and resources) means that no valid market comparisons exist. Both in terms of the size of the trade and the limited number of parties involved, the setting is one that closely parallels an oligopolistic bargaining situation. It is highly unlikely that the three-party valuation of the trade would be anything like that which would emerge on the basis of competitive market forces.

With these reservations in mind, it is interesting to look at some rough attempts at valuation of the trade. A somewhat cursory attempt at placing market comparison values on the State lands involved in the trade was carried out by the State Division of Lands. Using their data, and supplementary guesses where necessary, Table 1 was constructed. The assumptions underlying the table are set out in the notes to the table, but in general, only surface values are considered. In one instance (the Beluga area) discounted coal royalties are included, and in one other instance (Campbell tract) sand and gravel values are included in one case.

It is clear from inspection of the information in the table that the net value of the trade is highly sensitive to certain assumptions. Using value per acre figures that would find some support in at least some quarters in all instances, the State either gains, loses, or emerges in a neutral position, depending upon which set of assumptions one wishes to use. A recent suit filed in which it is claimed that the State is losing 285.7 million dollars in the trade (surface estate only) is a further indication that the problem of determining value (in the appraisal sense) is great.

A second approach to the valuation of lands or resources is based on the capitalization of expected net income flows resulting from the lands and resources involved. The problems associated with this approach also present serious obstacles to accurate valuation of the present trade. In general, two key variables, the "net income stream" and the "discount" rate are involved.

From the State's perspective, the net income flows from the lands and resources involved may take the form of sales revenue, leases, bonus payments, rentals, royalties, severance taxes, property taxes, etc. In some cases there may also be personal and corporate income taxes that might otherwise not occur. From these revenues must be subtracted the administrative costs of managing and disposing of the lands and resources involved to obtain the net income stream. Thus, the revenues to the State depend on a complex set of policy considerations relating to the disposition of State lands and resources as well as the timing of this disposition, and on a whole

TABLE 1

Sensitivity of "Equal Valuation" Considerations to Per Acre Valuations,
Cook Inlet Land Trade, State Lands

Area Lands to State	Acres (000)	[1]Valuation, State $/Acre	Total (mil$)	Modified Valuation[4] "Unfavorable" $/Acre	Total (mil$)	Modified Valuation[5] "Favorable" $/Acre	Total (mil$)
Nushagak)	599.04	40	24.0	30	17.97	120	71.88
Chulitna)							
Sheep Creek	23.04	40	0.9	30	0.69	120	2.76
Sheep Creek	69.12	40	2.8	30	2.07	120	8.29
Campbell Tract	4.00	1501	5.9	1000	4.00	1000	16.00
Pt. Woronzof	0.59	5598	6.6	1000	0.59	1000	0.59
Pt. Campbell	1.18	7083	4.2	1000	1.18	1000	1.18
Tutna Lake	161.28	40	6.5	30	4.84	120	19.35
Chunilna	23.04	40	0.9	30	0.69	120	2.76
Talkeetna River	69.12	40	2.8	30	2.07	120	8.29
Koksetna	285.70	40	11.4	30	8.57	120	34.28
Susitna							
Kamishak Bay	299.52	40	12.0	30	8.99	120	35.94
TOTAL	1535.63		$78.0		$51.66		$201.32
Lands From State							
Pt. Mackenzie	3.20	200	0.640	667	2.13	667	2.13
Knik-Willow	4.48	300	1.344	1000	4.48	1000	4.48
Kashwitna	38.40	250	9.600	500	19.20	500	19.20
Chickaloon	4.80	125	0.600	300	1.44	300	1.44
Kenai	115.20	150	17.280	450	51.84	450	51.84
Beluga, Nikolai[2]	311.04	70	38.872	100	48.20	100	48.20
Misc. Lands to Villages[3]	41.47	225	9.331	300	12.44	300	12.44
TOTAL	518.59		$77.667		$139.73		$139.73
NET TOTAL (To-From)			+0.333		-88.07		+61.59

Source: See Notes.

Notes:

1. Valuation based on information contained in a memorandum from Michael C.T. Smith to Guy Martin, dated December 6, 1975, and in supporting materials for memorandum.

2. Includes 15.9 million for coal royalties and revenues foregone, and 1.2 million dollars of foregone timber values. Both numbers are present value figures.

3. Informed guess.

4. Assumes; "$40" land is actually worth $30 per acre; that restriction on use of Campbell Tract, Point Woronzof, and Point Campbell (for recreation, etc.) reduce value to $1,000 per acre; and that lands relinquished by the State are revalued upwards as indicated. While there is no particular basis for assuming these figures, they are not out of keeping with general observations on land prices in the respective areas, and the probable impact that relocation of the capital might have.

5. Assumes that the values for lands relinquished by the State remain as in note 4, but that the value of lands received by the State is $120 per acre instead of $30, and that sand and gravel sales from development of Campbell Tract (at 12 million dollars) are included. Gravel sales are restricted to the development of Campbell Tract for recreation purposes only. Data based on Division of Lands information.

set of future economic conditions which in general have neither been predicted nor in any sense are knowable at present. Some truly Herculean assumptions would be necessary to even begin to estimate either the magnitude or the timing of the net income stream that the State is either giving up or obtaining in the trade.

A further problem exists in the case of public resources in attempting to estimate net income. It is one of attempting to assign dollar values to nonmonetary flows of services such as those derived from recreational use of the lands. For example, the Campbell tract if restricted to park and recreation uses might be expected, at the outside, to yield an annual income of perhaps $100,000 net. If we capitalize this income stream, in perpetuity, at 5 percent then the tract is theoretically worth 2 million dollars, or about $500 per acre. I suspect that many people would place a substantially higher valuation on the tract precisely because the land is restricted to park and recreation purposes. Or, for example, how does one place a dollar value on the preservation of fisheries habitat? In other words, there are real problems with setting dollar values on many of the benefits associated with public lands.

The problems that Cook Inlet Region, Inc. and the Federal government face are similar, although in the case of Cook Inlet, the subjective valuations (aside from uncertainty due to imperfect knowledge) are of a different nature given the private identity of the corporation.

To compare net income streams they must somehow be capitalized or discounted to obtain comparable present values. Thus, a second major consideration in this approach to valuation is the choice of discount or capitalization rates.

The present value of income received far in the future is highly sensitive to the particular discount rate selected. For example, $100 received 50 years in the future has a present value of $8.72 if the discount rate is 5 percent, while the value of $100, 50 years in the future, is only $2.13 if the discount rate is 8 percent. Alternatively, the capitalized value of a perpetual income stream of $100 is $2,000 at a 5 percent capitalization rate, but only $1,250 at an 8 percent rate. The point is simple; the value of future income or the capitalized value of a future stream of income, is highly sensitive to the discount or capitalization rate used. When this is combined with the highly speculative nature of future net income streams, either public or private, any attempt to estimate value is subject to extreme error.

The discussion of the issue of "equal value" can be summarized as follows. A serious problem arises as soon as we attempt to determine value on the lands and resources involved in the trade. The

magnitude of the tracts involved, and the uncertainties as to the kinds and qualities of the lands and resources involved, as well as the uncertainties related to future income anticipated, make standard valuation techniques inappropriate. In short, if the concept of equal value is to have real meaning in the analysis of the present trade it must be based on broader economic concepts than those set out above.

IV. What is the Economic "Loss" to the State?

There currently are many numbers being mentioned purporting to show various values that the State is losing in the trade. In a suit filed by Galliett and Lewis, asking for a permanent injunction against the trade, the net loss to Alaskan citizens is estimated to exceed 5 billion dollars in present value. Figures prepared by the Bureau of Mines, which you have, indicate that about 2.0 billion dollars of potential royalty income to the State will be foregone. Another figure points to roughly 90 million dollars of potential agriculture and forest land values that will be lost by the State. A detailed critique of these and other numbers goes beyond the scope of this memorandum, but certain points should be made.

The most important point is that generally the losses are grossly exaggerated. What the State stands to lose (and the same standard applies to what it might gain) is the present value of revenues that it would derive from the disposition of the lands and resources that it would not otherwise derive, minus the associated costs of managing and disposing of the lands and resources.

In each of the above cases, it is implicitly assumed that every acre and every resource, be it known, inferred, or hypothesized, is going to be sold, leased, extracted, or in some other way converted into revenue going to the State. Such an assumption is simply in error. Clearly only a small fraction of land that the State is giving up in the trade would have gone into private ownership or in some other way generated revenue for the State. Even with substantial population growth in the State, market demand will not exist in sufficient magnitude to absorb the vast quantities of acreages being discussed.

In a period of rising land prices past history must be interpreted with caution, but it is instructive to take note of the history of land disposition in the State. It is generally recognized that revenue was only one of several forces influencing land disposal. Much of the pressure was, in fact, counter to the revenue objective, inspired as it was by the desire to obtain "cheap" land. Presently proposed legislation to create "homestead" land is indicative of a continuing sentiment that revenue is not the only concern in the disposal of land.

A second consideration is that, for example, during the years 1972-74, land disposal revenues to the State ranged between 1.5 and 3.0 million dollars per year. This is hardly a significant source of revenue. Furthermore, disposal of lands, particularly when random settlement and development is the result, probably generates costs to the State far in excess of the revenues received.

For similar reasons, it is highly unlikely that the State would or could market every last acre of timber resource that has been identified in the trade, nor is it probable that the State could convert all of the lands with agricultural potential that have been identified into some form of revenue. In other words, the gross value of the surface estate is a far cry from future income streams that the State might derive from these lands.

It was pointed out earlier that the relevant economic value to the State is the present value of the revenues, not their nominal value some generations in the future. This clearly further reduces any hypothetical loss to the State.

Similar remarks apply to the subsurface resources. The assumption that all of the known, inferred, and hypothesized deposits or resources will be developed, even with the time frame suggested, is at best rank speculation. There is, firstly, a real question as to whether some (or perhaps any) of these resources will ever have commercial value. Secondly, it is entirely possible that, as a matter of State choice, the resources would not have been developed in any event.

It is meaningless to compare future gross royalties when no adjustment is made either for timing or for the uncertainty of the future revenues. It is a problem of adding apples and oranges. A common denominator is necessary and present value is the most frequently accepted means of making the comparison. For example, if the numbers prepared by the U.S. Bureau of Mines are discounted for both time and risk, the present value (1976) of all royalties estimated amounts to about 24 million dollars. This is a far cry from the several billion dollars that might be inferred from the tables. While the choice of risk factors and timing are arbitrary, a wide range of factors will result in present value amounting to millions, not billions of dollars.

A more concrete example of what present coal prospects look like is available. According to the Alaska Scouting Service, a huge coal complex is planned for the Beluga area. Informed sources place annual production at an average of 5 million tons per year, at a royalty of $0.30 per ton. Thus the revenue amounts to 1.5 million dollars per year. Assuming that production begins four

years from now, and lasts for thirty years, the present value of the royalty (discounted at 8 percent) is about 12 million dollars. It might also be pointed out that the project is still in the planning stage and there is no guarantee that production will ever take place.

There is another point that needs to be made with respect to State "losses." This relates to the issue of income foregone by the State on resources traded off. Since economic rents are closely tied to this discussion, we should briefly define the concept. We can define economic rent as the revenue received from the sale of a resource minus the real economic cost of producing the resource (including a competitive rate of return on investment).

The importance of this concept is that economic rent is a "surplus" above and beyond that necessary to bring a resource into production, and that the economic rent is the only source of revenue from the resource that the State may acquire. In other words, only if economic rent is present will the State be able to impose any kind of royalty or tax on the resource. If the rent is not there, and the State attempts to impose a royalty, production will not take place.

Hence, the question of what the State gives up in the transfer of the resource is really a question of how much economic rent the State stands to loose. The answer varies according to the assumption one makes.

If we assume that the State uses its full power of taxation, then 100 percent of the economic rent can be returned to the State, and the State has given up nothing in the transfer of the resource to the private sector.

While the State is unlikely to do this, it is reasonable to expect that the State will be as successful at "capturing" rents from the private sector as it is in capturing them in its own negotiations. Under these assumptions, the State again has lost little or nothing.

In other words, while the State may give up ownership of the resource, it in no way gives up the ability to derive roughly the same revenue that it would have derived otherwise. Whether it chooses to do so or not is another matter.

V. The Issue of the State's Fiscal Viability

The second major economic question that should be addressed is "does the trade impair the future fiscal viability of the State?" The answer is almost certainly no.

ATTACHMENT B

COOK INLET REGION, INC. PUBLIC USE AND ACCESS POLICIES

Historically, Cook Inlet Region, Inc. (CIRI) has made numerous efforts to allow for public use of, and access across, its lands. An example of a major commitment to public use is CIRI's Public Use Permit Program which allows for public access to over 400,000 acres within the Cook Inlet Region boundaries (attached).

CIRI has also entered into numerous agreements which provide for public use of, and access across, an extensive amount of CIRI land holdings. The more significant agreements include:

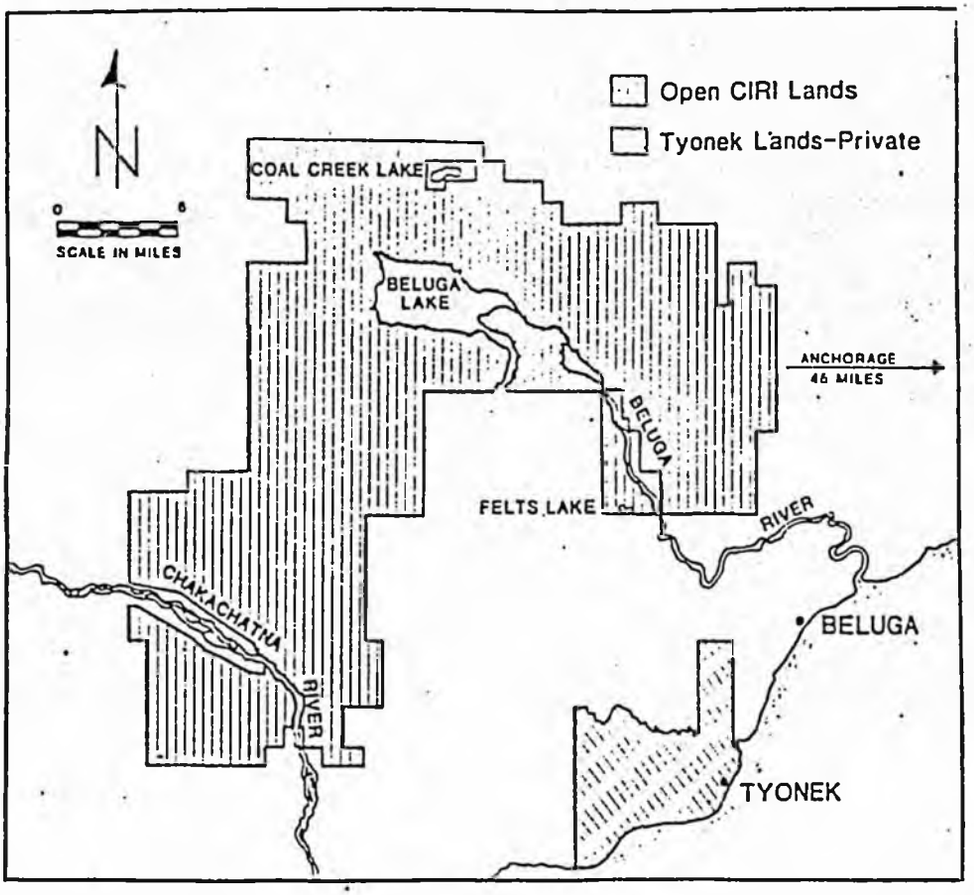
1. CIRI-State Out-of-Region Agreement - allows for public use of over 98,000 acres near Farewell, Alaska.

2. CIRI-State East Forelands Agreement - provides an opportunity for the State to lease, at $1.00 per year, over 150 acres on the Kenai Peninsula for important recreational purposes.

3. CIRI-State-Mat-Su Borough Alexander Creek Agreement - guarantees public access along the popular Alexander Creek.

In summary, CIRI has taken numerous steps to accommodate public use and access needs on and over its lands, and intends to continue doing so in the future.

COOK INLET REGION LANDS IN THE BELUGA AREA OPEN FOR PUBLIC USE



Cook Inlet Region, Inc. (CIRI) is continuing its program of allowing for the public to utilize 300,000 acres of private lands in the Beluga area for the recreational uses: hunting, fishing, camping and hiking. All person or parties planning on utilizing CIRI lands for recreational purposes as shown above will be required to obtain a Recreational Use Permit. Permits are valid for a maximum of 30 days and are free of charge.

Land owned by Tyonek Native Corporation are not covered under this permit program. Those lands should be respected as private property.

To obtain a permit or receive additional information contact: Cook Inlet Region, Inc., Land Department, 2525 C Street, Anchorage, Alaska 99503 or call 274-8638.

Cook Inlet Region, Inc.'s Public Use Permit Program represents a positive approach to public use management on private lands. The program has been in existence for over two years. During that time it was limited to 300,000 acres in the Beluga area. Because of the program's success in the Beluga area it will be expanded this year to include all unimproved CIRI lands within the Cook Inlet Region. The expanded program will cover over 400,000 acres and will now include lands in the Talkeetna and Pt. MacKenzie areas as well as on the Kenai Peninsula.

ATTACHMENT C

OUT OF REGION AGREEMENT

This Agreement is entered into November 18, 1982, between the State of Alaska (the State) and Cook Inlet Region, Inc. (CIRI), regarding the provisions of subparagraph I(C)(1)(b) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," as clarified and supplemented (the Terms and Conditions).

The parties agree as follows:

1. Approval of CIRI "Red Line Pool". The State shall, upon request by CIRI, affirmatively support in writing expeditious conveyance of the lands to CIRI specified in Appendices I through VIII to this Agreement (the Red Line Pool) subject to the covenants, easements and conditions described in this Agreement and the Appendices. Within ten (10) days after written notice by CIRI of selection of the township(s), the State shall relinquish its selection or selections regarding a particular township(s).

2. Effect of "Red Line Pool". Within thirty (30) days after the date of this Agreement, the State shall note on its surface and subsurface estate status plats that there is a high probability that lands in the Red Line Pool may be selected by CIRI. CIRI agrees, subject to paragraph 8 of this Agreement, that it will not nominate to the Secretary under subparagraph I(C)(1)(b) of the Terms and Conditions any State-selected lands not contained in the Red Line Pool, provided that CIRI may request that State-selected lands outside of the Red Line Pool be included in said pool under the following circumstances:

In the event of a failure of required consent from the Secretary or a Regional Corporation under subparagraphs I(C)(1)(a) or (b) of the Terms and Conditions, or of a failure of required consent from the Secretary or a Native Corporation under subsection 12(b)(6) of Public Law 94-204; then CIRI may submit, and within thirty (30) days thereafter the State shall review and comment upon, additional CIRI selection interest

lands. Unless otherwise mutually agreed to, the parties shall meet at least once per week thereafter and negotiate in diligent good faith regarding approval of such lands for placement in the Red Line Pool. The intent of this process will be to attempt to replenish expeditiously the Pool in an amount equal to the lands for which there exists a failure of required consent as described above.

3. Release of Lands from the Red Line Pool and from CIRI Claims. Within 120 days of the date set by subparagraph 1(C)(1)(b) of the Terms and Conditions, as extended by Congress, when CIRI is required to nominate at least six times its entitlement to the Secretary, CIRI shall make its final selections from the Red Line Pool. Any land in the Red Line Pool which CIRI does not select by that date is released from any claim under subparagraph 1(C)(1)(b) of the Terms and Conditions. Any land in Alaska outside of the CIRI Region which CIRI may select under subparagraph 1(C)(1)(b) of the Terms and Conditions and which CIRI has not selected within four months of completion of the pool is released from any further claim by CIRI under said paragraph.

4. Prioritization for Reduction of Nominations. Lands within the Red Line Pool described above have been prioritized into eight township groups, as described in Appendix IX, with Group A being CIRI's highest priority for retention in the pool and Group H being the lowest priority. Each township group has been further divided into two or more approximately township-sized units, with number one being CIRI's highest priority for retention in the pool. Within thirty (30) days of receipt of interim conveyance or title for any accumulation of 23,040 or greater acreage of CIRI's entitlement under subparagraph 1(C)(1)(b) of the Terms and Conditions by any means other than the conveyance of lands from the Red Line Pool, including but not limited to conveyance of land pursuant to subparagraph 1(C)(2) of the Terms and Conditions and the purchase of excess and surplus property, CIRI shall relinquish an equivalent number of acres according to the then lowest existing priority unit or units as shown in Appendix IX. The priorities in Appendix IX may be modified upon mutual consent of the parties.

5. Extension of Deadlines. The State hereby agrees to an extension, by appropriate federal legislation or valid agreement, of the

deadlines established in subparagraph I(C)(1)(b) of the Terms and Conditions for a period of twenty-four (24) months beyond the period established by Public Law 96-311.

6. Interim Abevance of CIRI Nominations. Unless otherwise mutually agreed to by the parties, and subject to the provisions of paragraph 2 above, CIRI shall not designate any additional pre-June 1, 1982 state-selected lands pursuant to subparagraph I(C)(1) of the Terms and Conditions. CIRI may at any time, however, subject to paragraph 3 of this Agreement, nominate to its out-of-region pool any federal lands not selected by the State as of June 1, 1982, provided that in the event of a nomination by CIRI of such federal lands pursuant to subparagraph I(C)(1)(b) of the Terms and Conditions, the total number of acres to be nominated initially by CIRI ("6 times its remaining out-of-region entitlement") shall be reduced by the number of acres then-remaining in the Red Line Pool.

7. Proposed "Illinois Creek" Legislation. With respect to the lands described in Appendix II to this Agreement (hereinafter Illinois Creek), CIRI may formulate a legislative proposal containing the following terms:

(a) consideration for the conveyance of Illinois Creek to CIRI under the legislative proposal shall include:

(i) recoupment of selection rights by the State, with the ability to select federal lands unencumbered by mining claims (including lands with predominant surface value or oil and gas potential) and with the enlarged scope of selection provided by the extension of State selection deadlines and the ability to "top file" under Section 906 of Public Law 96-487;

(ii) subject to paragraph 8 of this Agreement, a waiver by CIRI of its priority over the State, pursuant to subparagraph I(C)(1)(c) of the Terms and Conditions, regarding selections of federal land outside of the Cook Inlet Region;

(iii) waiver by CIRI of any claim, including a claim under the Terms and Conditions to lands within the Trans-Alaska Pipeline

System Corridor (inner and outer) between the southern boundary of the North Slope Borough and the northern shore of the Yukon River, excluding lands placed in the Red Line Pool.

(iv) satisfaction of a portion of the CIRI out-of-region pool.

(b) the proposal shall be placed before the Alaska Legislature for affirmative approval;

Within ten (10) days after submission to the Department of Natural Resources of the legislative proposal as described above, the Commissioner of the Department of Natural Resources shall review the legislative proposal and consult with CIRI. Within ten (10) days thereafter, the Commissioner shall determine if the proposal is in the public interest and, if so, he shall provide to CIRI, to the Governor, to the President of the State Senate and the Speaker of the State House of Representatives, a letter affirmatively supporting approval of the legislative proposal and containing a detailed finding that the proposal is in the public interest and the reasons therefore.

8. Waiver of Claims to Portion of TAPS Corridor. CIRI waives any claim, including a claim under the Terms and Conditions, to lands within the inner and outer Trans-Alaska Pipeline System Corridor (TAPS Corridor) south of the north shore of the Yukon River, excluding lands placed in the Red Line Pool. This waiver does not affect the TAPS Corridor within the North Slope Borough.

9. Direct Convevance Agreement. To the extent permitted by federal law, the State and CIRI agree to enter into an agreement with the Secretary of the Interior for direct conveyance of land in the Red Line Pool from the State to CIRI pursuant to Section 12(b)(11)(iii) of the Cook Inlet Region, Inc., Alaska Railroad Waiver Amendments, dated September 16, 1982.

10. Post-Convevance Procedures. Within ninety (90) days following a conveyance to CIRI of particular lands as described in Appendices I through VIII, CIRI shall grant to the State the respective easements and submerged lands depicted and described in Appendices I through VIII. With respect to

the lands described in Appendices I, II and VII, the State, within ninety (90) days after such time as CIRI has been conveyed such lands and the State has been conveyed the adjacent lands, shall grant to CIRI the easements designated in those Appendices. Road, trail and site easements shall be reserved in the general locations depicted and described in Appendices I through VIII, although actual final locations shall be determined upon field examination and mutual agreement. Easements are not ANCSA 17(b) easements and will continue until terminated by mutual agreement of both parties. Terms used in the Appendices are defined as follows:

(a) 25' Trail Easement. The 25 foot trail easements described and depicted on the maps in the Appendices are restricted to travel by foot, dogsleds, animals, snowmobiles, two- and three-wheeled vehicles, and small all-terrain vehicles (less than 3,000 lbs. G.V.W).

(b) 50' Road Easement. The 50 foot road easements described and depicted on the maps in the Appendices are restricted to travel by large all-terrain vehicles (more than 3,000 lbs. G.V.W.), track vehicles and 4-wheel drive vehicles, in addition to the uses for 25 foot trail easements.

(c) Site Easement. Site easements described and depicted on the maps in the Appendices are reserved for aircraft landing or vehicle parking (e.g. aircraft, boats, ATV's, cars, trucks), temporary camping, loading or unloading at a trailhead, along an access route or waterway, or within a reasonable distance of a transportation route or waterway. Temporary camping, loading, or unloading shall be limited to 24 hours, except for site easements identified in Appendix I where camping shall be allowed for a period not to exceed fourteen (14) days.

(d) Submerged Land. CIRI shall convey whatever interest, if any, it has in land between the far left and far right banks of the waterbodies depicted in the Appendices, up to the line of ordinary high water.

11. Waiver of Right to Contest Certain Mining Claims on the Basis of Land Status. CIRI agrees that, with respect to mining claims, locations or

entries initiated on or before November 1, 1982, and asserted under Alaska state law on lands within the Red Line Pool, CIRI will not object to such claims, locations or entries on the basis that they were initiated on lands which were selected by, rather than tentatively approved or patented to, the State. This restriction applies solely to lands within the Red Line Pool and does not preclude objection or contest of any such claim, location or entry on any other grounds. CIRI shall not unreasonably deny access to any such valid existing claim. The holder of the mining claim, location or entry will have the complete enjoyment of all rights, privileges and benefits granted to such claim under state law. Upon issuance of patent, CIRI shall succeed and become entitled to any and all interests of the State as grantor and licensor of the mining claim location or entry, including its administration pursuant to applicable state law.

12. Both parties to this Agreement participated in its drafting; accordingly, it should be construed in order to effectuate the intents and purposes of the parties, without a preference for resolution of its terms in favor of one party or the other. The effect of this provision is limited to the terms of this Agreement.

Dated: Nov 8, 1982

State of Alaska

John W. Katz, Commissioner,
Department of Natural Resources

Dated: 11/17/82

Cook Inlet Region, Inc.

Roy M. Huhndorf, President

Dated: 11/18/82

Approved as to form.
Office of the Attorney General

Offered: 5/3/85
Referred: Finance

Original sponsor: Szymanski

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 383 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the recoupment conveyance for land at Illinois Creek; and providing for an effective date."

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

* Section 1. PURPOSES AND FINDINGS. (a) The purposes of this Act are to permit the state to recoup certain land selection rights provided for in sec. 606(d)(6) of Public Law 97-468, to realign the ownership of land as between the state, Cook Inlet Region, Inc., and the United States in order to

(1) facilitate land management;

(2) create private land ownership patterns that encourage mineral development in appropriate areas;

(3) facilitate implementation of the Alaska Native Claims Settlement Act; and

(4) assure maximum public benefit from selections made under the Alaska Statehood Act.

(b) The legislature finds that the recoupment conveyance of land at Illinois Creek is a matter of statewide significance, is in the general public interest, and will accomplish the purposes intended.

* Sec. 2. APPROVAL OF TRANSFER. (a) In return for the recoupment of selection rights under the Alaska Statehood Act and other consideration described in the "Out of Region Settlement" dated November 18, 1982, between the Cook Inlet Region, Inc. and the state, the commissioner of natural resources may convey the following described land to the United

States for reconveyance to Cook Inlet Region, Inc.:

(1) Township 15 South, Range 6 East, Kateel River Meridian
Sections 11 - 14
Sections 23 - 25

(2) Township 15 South, Range 7 East, Kateel River Meridian
Sections 17 - 20
Sections 29 - 30

(3) Township 16 South, Range 4 East, Kateel River Meridian
Sections 1 - 2
Sections 11 - 14
Sections 23 - 27
Sections 34 - 36

(4) Township 16 South, Range 5 East, Kateel River Meridian
Sections 6 - 9
Sections 16 - 36

(5) Township 17 South, Range 4 East, Kateel River Meridian
Sections 1 - 3
Section 12

(6) Township 17 South, Range 5 East, Kateel River Meridian
Sections 1 - 12

(b) Notwithstanding AS 38.05.125, a conveyance by the commissioner of natural resources under this section transfers all of the right, title, and interest of the state in the land, including the subsurface mineral estate as authorized by sec. 12(b)(11) of Public Law 92-204 as amended by sec. 606(d)(1) of Public Law 97-468.

(c) The commissioner of natural resources may grant those easements described on a map entitled "Illinois Creek Recoupment Conveyance-1985."

* Sec. 3. WAIVER. AS 38.50 does not apply to a conveyance under sec. 2(a) of this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Introduced: 4/17/85
Referred: Resources
and Finance

IN THE HOUSE BY SZYMANSKI

HOUSE BILL NO. 383

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the recoupment conveyance for land at Illinois Creek; and providing for an effective date."

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(1) facilitate land management;

(2) create private land ownership patterns that encourage mineral development in appropriate areas;

(3) facilitate implementation of the Alaska Native Claims Settlement Act; and

(4) assure maximum public benefit from selections made under the Alaska Statehood Act.

(b) The legislature finds that the recoupment conveyance of land at Illinois Creek is a matter of statewide significance, is in the general public interest, and will accomplish the purposes intended.

* Sec. 2. APPROVAL OF TRANSFER. (a) The commissioner of natural resources may convey certain land described in the "Out of Region Agreement" dated November 18, 1982, between Cook Inlet Region, Inc. and the state to the United States for reconveyance to Cook Inlet Region, Inc., in return for recoupment of selection rights under the Alaska Statehood Act

and other consideration described in the "Out of Region Agreement." Notwithstanding AS 38.05.125, a conveyance by the commissioner of natural resources under this subsection transfers all of the right, title, and interest of the state in the land, including the subsurface mineral estate as authorized by sec. 12(b)(11) of Public Law 92-204 as amended by sec. 606(d)(1) of Public Law 97-468.

(b) The commissioner of natural resources may grant those easements described on a map entitled "Illinois Creek Recoupment Conveyance-1985."

* Sec. 3. WAIVER. AS 38.50 does not apply to a conveyance under sec. 2(a) of this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).