

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

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TESTIMONY OF ROSS G. SCHAFF,
STATE GEOLOGIST, ALASKA
BEFORE THE
HOUSE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
OF THE
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

FEBRUARY 22, 1979

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: MY NAME IS ROSS G. SCHAFF, STATE GEOLOGIST FOR THE STATE OF ALASKA, AND DIRECTOR OF THE DIVISION OF GEOLOGICAL AND GEOPHYSICAL SURVEYS OF THE ALASKA DEPARTMENT OF NATURAL RESOURCES. I HAVE SPENT 18-1/2 YEARS OF MY PROFESSIONAL CAREER IN ALASKA DEALING WITH VIRTUALLY EVERY ASPECT OF ALASKA'S MINERAL, ENERGY, AND WATER RESOURCES. TODAY I WILL COMMENT MAINLY ON PETROLEUM AND NATURAL GAS, BUT WILL ALSO MENTION COAL, SAND AND GRAVEL, AND WATER.

THE STAFF OF THE STATE GEOLOGICAL SURVEY HAS PREPARED A MAP WHICH DEPICTS THE YOUNGER SEDIMENTARY BASINS OF ALASKA WHICH HAVE A RESOURCE POTENTIAL FOR OIL AND GAS, AS WELL AS URANIUM, COAL, AND OTHER LEASABLE MINERALS. THIS MAP IS BASED SOLELY ON PUBLIC INFORMATION AND THE BOUNDARIES OF EACH BASIN ARE SUBJECT TO CRITICISM. NEVERTHELESS, THE MAP ILLUSTRATES THE GENERAL DISTRIBUTION OF THE OIL AND GAS POTENTIAL IN ALASKA, AS WELL AS THE MAGNITUDE OF THIS POTENTIAL. I HAVE ALSO PROVIDED THE COMMITTEE WITH AN "ENERGY RESOURCE MAP OF ALASKA" WHICH DEPICTS THE FULL RANGE OF ENERGY RESOURCES, INCLUDING POTENTIAL HYDROELECTRIC POWER SITES.

THE FIRST IMPORTANT POINT I WISH TO MAKE CONCERNING THE OIL AND GAS

POTENTIAL OF ALASKA IS THAT RELATIVE TO THE CONTIGUOUS UNITED STATES, THE DATA BASE FROM WHICH WE ARE ALL REQUIRED TO MAKE DECISIONS IS EXTREMELY WEAK AND UNCERTAIN. I RECOGNIZE THAT THIS STATEMENT HAS BEEN MADE MANY TIMES AND WILL BE MADE MANY MORE TIMES, BUT IN MY OPINION IT IS ONE OF THE MOST SIGNIFICANT REALITIES WITH WHICH WE MUST DEAL. I HAVE PROVIDED YOU WITH A LIST OF ALASKA'S BASINS AND A TABULATION OF THE NUMBER OF DRILL HOLES PER BASIN TO ILLUSTRATE MY POINT. SIGNIFICANT IS THAT TWELVE OF THESE BASINS HAVE NEVER BEEN DRILLED; FOUR HAVE HAD ONLY ONE HOLE; FIVE HAVE HAD FEWER THAN 10. ONLY TWO HAVE HAD SIGNIFICANT EXPLORATION, AND THESE ARE THE PRODUCERS: THE COOK INLET AND THE NORTH SLOPE. BY WAY OF CONTRAST, THE LOS ANGELES BASIN (1,250 SQUARE MILES) IS SMALLER THAN ALASKA'S SMALLEST BASIN, THE HOLITNA BASIN, AND HAS HAD APPROXIMATELY 20,000 HOLES AND PRODUCED 5.7×10^9 BARRELS OF OIL. FROM THIS, IT SHOULD BE CLEAR AT THIS STAGE OF EXPLORATION THAT WE CAN PROVIDE VERY LITTLE INFORMATION ABOUT THE ENERGY RESOURCES OF ALASKA'S SEDIMENTARY BASINS. CLEARLY, THERE IS A NEED FOR EXTENSIVE EXPLORATION OF ALL BASINS BEFORE VALID CONCLUSIONS CAN BE MADE.

A CASE IN POINT IS AN AREA OF CHIEF CONCERN TO THIS COMMITTEE, NAMELY, THE ARCTIC WILDLIFE RANGE. IN OUR OPINION, THE COASTAL PLAIN OF THIS RANGE AND THE ADJACENT AREA OFFSHORE HAS THE GREATEST POTENTIAL FOR OIL AND GAS OF ANY AREA IN THE UNITED STATES. THERE IS LITTLE MORE WE CAN SAY BECAUSE WE HAVE NO SEISMIC INFORMATION, NO DRILL HOLES; ONLY AEROMAGNETIC, GRAVITY, AND SURFACE INFORMATION. WHAT THEN IS THE BASIS FOR SUCH A GRANDIOSE STATEMENT?

FIRST, THE GEOLOGY IS UNIQUE TO THE NORTH SLOPE BASIN. THIS IS THE ONLY AREA OF THIS HUGE BASIN WHICH CONTAINS YOUNGER SEDIMENTS WHICH ARE KNOWN TO CONTAIN OIL AND GAS ELSEWHERE ON THE SLOPE, WHERE STRUCTURAL TRAPS ARE SEEN TO EXIST. ONE SURFACE EXPRESSION OF THIS STRUCTURAL STYLE IS THE MARCH ANTICLINE, WHICH EXCEEDS 50 KM. IN LENGTH.

SECOND, THE RESERVOIR CHARACTERISTICS OF THESE ROCKS ARE NEAR THE IDEAL WITH SUPERB POROSITIES AND PERMEABILITIES.

THIRD, THE SOURCE ROCKS BELIEVED TO BE RESPONSIBLE FOR THE OIL OF PRUDHOE BAY OUTCROP WITHIN THE RANGE IN THE SADLEROGCHIT MOUNTAINS, AND THE YOUNGER SEQUENCE CONTAINS HIGHLY ORGANIC HOLES.

FOURTH, ONE MUST ADMIT THAT THERE IS AN UNDEFINED POTENTIAL IN THE OLDER ROCKS FOR A PRUDHOE BAY TYPE OF ACCUMULATION.

FIFTH, THREE OIL SEEPS AND TWO OUTCROPS OF OIL-STAINED SANDSTONE ADD SIGNIFICANCE TO THE OIL AND GAS POTENTIAL.

IN ADDITION, SEISMIC DATA OFFSHORE REVEAL NUMEROUS STRUCTURES SIMILAR TO THE MARCH ANTICLINE, AND IT IS LIKELY THAT THESE CONTINUE ONSHORE INTO THE RANGE. ONE OFFSHORE STRUCTURE IS 150 KM. IN LENGTH.

FINALLY, COMMERCIAL QUANTITIES OF OIL AND GAS HAVE BEEN DISCOVERED TO THE EAST BY CANADA IN GEOLOGICALLY SIMILAR TERRAIN, AND DISCOVERIES HAVE BEEN MADE TO THE EAST AT FLAXMAN ISLAND AND POINT THOMSON.

THUS ALL THE ELEMENTS NECESSARY TO ENCOURAGE FURTHER EXPLORATIONS ARE PRESENT: SUPERB RESERVOIR CHARACTERISTICS, SOURCE ROCKS, AND STRUCTURES WHICH MAY HAVE TRAPPED OIL AND GAS IN BOTH THE YOUNGER AND OLDER ROCKS.

THE STATE OF ALASKA IS AS CONCERNED ABOUT THE ENVIRONMENTAL IMPACT ON THIS REGION AS IT HAS CONSISTENTLY BEEN ELSEWHERE IN THE STATE. THE EXPLORATION PHASE CAN BE DONE WITH NO SUBSTANTIAL SHORT OR LONG RANGE IMPACT AS HAS BEEN DEMONSTRATED IN NPR-A. SEISMIC SURVEYS CONDUCTED IN THE WINTER MONTHS ON FROZEN, SNOW-COVERED GROUND CAN BE ACCOMPLISHED WITHOUT LEAVING A TRACE. THIN, NON-PERMANENT DRILLING PADS CAN BE REMOVED AND RESEED, ALLOWING FOR THEIR DISAPPEARANCE WITH 10 YEARS. GRAVEL AIRSTRIPS WILL NOT BE NEEDED FOR EXPLORATORY DRILLING CONDUCTED DURING THE WINTER. SAND AND GRAVEL RESOURCES NEEDED FOR DRILLING PADS ARE ABUNDANT IN THE NUMEROUS BRAIDED STREAMS OF THE AREA AND CAN BE OBTAINED WITHOUT DISTURBING THE STREAM ITSELF. WATER, THE STATE'S MOST PRECIOUS RESOURCE, CAN BE OBTAINED FROM LAKES AND STREAMS ONLY THROUGH COMPLIANCE WITH THE STATE'S RIGID WATER APPROPRIATION LAWS AND REGULATIONS. FINALLY, THE CARIBOU ARE NOT FOUND IN THIS AREA DURING THE WINTER MONTHS WHEN THE EXPLORATORY PHASE WILL BE CARRIED OUT.

THE DEVELOPMENT PHASE, IF OIL AND GAS ARE DISCOVERED, IS OBVIOUSLY MORE PROBLEMATIC. WE HAVE, FORTUNATELY, TWO MODELS IN THE STATE FOR REFLECTION AND OBSERVATION. THE FIRST IS THE SWANSON RIVER FIELD IN THE KENAI MOOSE RANGE, AN EXISTING UNIT OF THE REFUGE SYSTEM, AND WHICH IS COMMONLY CITED BY BOTH ENVIRONMENTALISTS AND DEVELOPERS AS A MODEL OF HOW OIL PRODUCTION CAN TAKE PLACE WITH MINIMAL EFFECT ON THE ENVIRONMENT.

None relevant to this discussion is the second panel, namely, Prudhoe Bay. I leave judgment on both of these areas to experts more qualified than I. I would point out, however, that while the exploration phase will involve all of the coastal plain of the Range (perhaps 2 dozen wells), the development phase will involve only a very small percentage of the area.

For example, for Prudhoe Bay, 45,000 square miles were involved in the exploration phase, but only 400 square miles are involved in production.

I will conclude my testimony with several miscellaneous thoughts:

- 1) If exploration is conducted in the Arctic Wildlife Range, whether by industry or government, provisions should be made for involving the State of Alaska in the process. Information obtained onshore will be invaluable to the State's assessment of the resource potential within the State's submerged lands adjacent to the Range. In turn, the Federal government would benefit from information obtained by the State.
- 2) Consideration should also be given to insuring that the State has access to the area of State submerged lands off the Arctic Wildlife Range, surrounded as it is by ice to the north and the Range to the south. Provisions for access elsewhere is an essential component of legislation affecting Alaska's resources.
- 3) If exploration of the Range or other wildlife areas of the State is permitted, I would encourage the Committee to provide for adequate hydrologic investigations. Water is our most basic resource, and much of Alaska is a desert. Yet it is the one resource about which we have the least knowledge for decision making.

- 4) PERHAPS AS MUCH AS 50% OF THE NATION'S COAL RESOURCES CAN BE FOUND ON THE NORTH SLOPE. ESTIMATES RANGE GREATLY, AGAIN BECAUSE OF THE SCANTY DATA BASE. AS MANY AS 3.3 TRILLION TONS HAVE BEEN SUGGESTED BY THE USGS. ASSUMING 3 BARRELS OF OIL IS THE BTU EQUIVALENT OF 1 TON OF COAL, A CONSERVATIVE ENERGY RESOURCE EQUIVALENT OF 3 TRILLION BARRELS OF OIL IS PRESENT ON THE NORTH SLOPE. THIS FIGURE IS GREATER THAN THE OIL RESERVES OF THE ENTIRE WORLD. STUDIES SHOULD INCLUDE AN EVALUATION OF THIS IMMENSE ENERGY RESOURCE.

THANK YOU.

GULF OF ALASKA TERTIARY PROVINCE ≈ 25

YAKATAGE BASIN	0
MIDDLETON BASIN	
BETHEL BASIN	1 DRY, 2 CORE TESTS
TRINITY BASIN	0
BRISTOL BAY BASIN	14 ONSHORE
ST. GEORGE BASIN	1 STRATIGRAPHIC
ZHEMCHUG PROVINCE	0
CENTRAL CHUKCHI PROVINCE	0
HOPE BASIN	0
MORTON BASIN	0
ST. MATTHEW BASIN	0
YUKON-KANDIK BASIN	3 DRY
TANANA BASINS	1 DRY
MINCHUMINA BASIN	0
COPPER RIVER BASIN	≈ 8-10 DRY
SUSITNA BASIN	1
COOK INLET BASIN	NUMEROUS
HOLITNA BASIN	0
KODIAK SHELF	6 STRATIGRAPHIC
NAVARIN BASIN	0
SELAWIK BASIN	2 DRY
ANADYR BASIN	0
SHUMAGIN SHELF	0

ON ARCTIC WILDLIFE RANGE

The United States Geological Survey and the State of Alaska Geological Survey released a geological report 79-6634 Friday, (11/30/79). The report contains new geological information which reinforces the conclusion held by most industry and government geologists that the Arctic Wildlife Range has the highest potential for oil and gas of onshore Alaska. The data are particularly timely because the classification of the Arctic Wildlife Range is a big issue in the Alaska lands debate in Congress.

The report presents data collected by the USGS and State Geological Survey on the North Slope of Alaska during July of 1979. A subsequent interpretive report is planned for release during the spring of 1980. Geochemical data confirm the widespread presence of hydrocarbons in rocks of the Range. Data concerning porosity and permeability confirm the presence of reservoir rocks. Paleontological data will assist in determining the age of both source and reservoir rocks, a factor important in understanding the timing of oil and gas generation and migration.

Dr. Ross G. Schaff, State Geologist for Alaska (Director of the State Geological and Geophysical Surveys) commented on the importance of geologic information from the Arctic Wildlife Range:

"During the Alaska lands debate, many speculative statements have been made about the oil and gas potential of the Arctic Wildlife Range. These statements, by necessity, have been based on an extremely scanty data base, as is much of the debate about Alaska's mineral and energy resources. Specific statements on reserves or the distribution of these

resource - such as 95% of the Alaska energy resources are outside specific boundaries - have been misleading to the public and their representatives in Congress. The data presented in this report are important because they are recent, timely, and can provide some basis of fact for continued debate."

Schaff further summarized the circumstantial evidence surrounding an understanding of the Range's oil and gas potential:

"First, no data exists to confirm or deny the presence or absence of a Prudhoe Bay type of accumulation. A previous report by the USGS about the Range (OFR 78-489), makes this very clear. This possibility still exists.

"Second, the geology of the Arctic Wildlife Range is unique to the North Slope in that the rocks known to contain hydrocarbons elsewhere within this petroleum province have been folded and faulted into structural traps, such as the Marsh Creek Anticline, a large structure visible at the surface.

"Third, recent discoveries in the MacKenzie River delta region of Canada in similar geologic terrain are very large (Dome Petroleum Ltd. estimates reserves of this region at 250-320 trillion cubic feet of gas with 30-40 billion barrels of oil).

"Fourth, oil and gas seeps within the Range itself must be considered a positive factor in assessing the potential of the Range.

"These factors and the data of this most recent report, when combined with the July 31, 1979 statement of the Interior Department's Office of Minerals Policy and Research Analysis that there is a 25% probability that only 12.29 billion barrels of oil are in place to the west in National Petroleum Reserve, Alaska (NPR-A), suggest that exploration efforts should also be focused on the Arctic Wildlife Range.

"The evidence at hand, while neither confirming nor denying the existence of large oil and gas resources, strongly supports the conclusion held by experienced North Slope geologists that the Arctic Wildlife Range has the highest oil and gas potential in the United States."

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MEMO TO: The Honorable Terry Miller
Lieutenant Governor

FROM: John W. Katz *JK*
Special Counsel

SUBJECT: Alaska Lands Legislation

DATE: December 12, 1979

For your information and use, I am enclosing copies of a comparative summary of the Udall-Anderson bill (H.R. 39), the measure recently reported by the Senate Energy Committee (formerly S.9), and existing law. The latter point of comparison was included so that you can assess the three non-judicial alternatives which currently exist.

The summary is the product of a cooperative effort involving my staff and the staffs of each member of the Congressional delegation. It is my understanding that each staff concurs in the accuracy of the analysis which is presented.

If you or members of the Blue Ribbon panel have any questions concerning the subject matter or the accompanying enclosure, please let me know.

COMPARATIVE SUMMARY

Alaska Lands Bill

The following is a comparative summary of the major Alaska lands proposals pending before Congress and their relationship to existing land status. This document is designed to compare and to contrast the changes in existing laws and regulations effected by S.9, as reported out of the Senate Energy Committee in October of 1979, and H.R. 39, the Udall-Anderson substitute bill passed by the House in May, 1979.* These two bills are representative of the legislative alternatives that might be passed by Congress and implemented to replace National Monuments proclaimed by the President, executive withdrawals made by the Secretary of the Interior, and the existing laws and regulations that accompany these monuments and withdrawals. Comparison of the provisions of "S.9," "H.R. 39," and "Monuments/Executive Withdrawals" (existing law), is made by reflecting each of the above alternatives in light of six areas of major concern: (1) conveyance of State and Native lands; (2) access and transportation; (3) development of high-value commodity resources; (4) wildlife management; (5) sport hunting; (6) general management provisions; and (7) geographic areas. Any improvements or failings in the two legislative proposals are best demonstrated when examined in contrast with existing laws which are applicable to the seven major areas of concern expressed above.

I. STATE AND NATIVE LANDS

A. State Selections

Under the 1958 Alaska Statehood Act, Alaska was granted a total of 103.4 million acres of land to support the costs of Statehood and to create an economy that would sustain the State.

*While the Udall-Anderson bill differs in some respects from S.222 and the Tsongas Substitute, these differences (except for relatively small variations in the acreage figures and for relatively minor changes noted elsewhere in the text) are not germane to this analysis. Thus, it is fair to say that the geographic designations and management provisions of all three bills are virtually the same in their impact.

This grant of lands remains largely unfulfilled. Section 17(d)(2) of the Alaska Native Claims Settlement Act provided for identification of lands within (d)(2) withdrawals which the State was interested in selecting.

Existing law (in-place executive withdrawals and existing regulations) and pending bills have three major impacts on State lands: (1) impact on lands already owned or selected by the State of Alaska; (2) impact on lands the State of Alaska selected as "interest lands" and selected in November, 1978 to fulfill the Statehood Act land entitlement; and (3) effects on conveyance of selected lands to the State.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) The withdrawal boundaries encompass approximately 7 million acres of existing valid State lands and selections as inholdings.

(b) Approximately 12 million additional acres identified by the State as "interest lands" and selected in November, 1978, are unavailable as a result of the monuments and executive withdrawals. High priority selections located in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake areas are denied to the State by the withdrawals.

(c) To date, the State has received effective title to only 37.5 million acres or approximately one-third of its Statehood entitlement--the State is still entitled to receive another 65 million acres. In an attempt to correct this situation, the Interior Department has begun a program to expedite conveyance of uncontested State selections. However, even under this program, it will be years before the State is finally vested with equitable title to the lands it has selected. Moreover, numerous regulations governing State selections are outdated, unworkable, or do not reflect situations created long after Statehood by later laws, such as the Alaska Native Claims Settlement Act (ANCSA) or the Federal Land Policy and Management Act (FLPMA). Many of these problems cannot be corrected by administrative action.

2. H.R. 39/Udall --

(a) Its unit boundaries include approximately 4 million acres of existing valid State lands and selections as inholdings.

(b) Approximately 12 million additional acres of "interest lands" are denied to the State by the bill. High priority selections denied to the State are located in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake areas.

(c) No provision of the bill expedites conveyance of the remaining 65 million acres of State land selections. The "conveyance" title in H.R. 39 merely reconfirms State selections which

have already been conveyed to the State or previously recognized as valid. In addition, it contains no provision conveying any of the "interest lands." Lastly, it does not amend existing selection conveyance regulations nor solve certain problems not foreseen at Statehood.

3. S.9 as Reported --

(a) Virtually all existing valid State lands and selections are excluded from its unit boundaries.

(b) Approximately 5 million acres of "interest lands" are included in the boundaries of conservation units and denied to the State. However, high priority selections in the Yukon Flats, Chulitna, Ambler Valley, and Iliamna Lake are conveyed to the State. Additionally, approximately 25 million acres of other "interest lands" are conveyed.

(c) S.9 includes a comprehensive land conveyance title which effectuates legislative conveyance of existing State selections including those "interest lands" selections filed in November, 1978 and not in conflict with S.9 units. It also contains provisions which amend existing State selection regulations and clarify the relationship between State selections and present and future administrative actions. Following the passage of S.9, nearly 95 percent of the State's entitlement will have been legislatively conveyed to the State of Alaska.

B. Native Lands

1. Monuments/Executive Withdrawals (Existing Law) --

In 1971, ANCSA granted 44 million acres to Native corporations in Alaska. Since that time, only 25 percent of the land entitlement has been conveyed to the Natives. Currently, the administration has announced a program to expedite conveyance of lands to the Native corporations.

2. H.R. 39/Udall --

It would instantly convey to the appropriate Native corporation the core township surrounding the Native village. In addition, the bill includes provisions designed to clarify ambiguities and solve problems pertaining to certain sections of ANCSA. Finally, H.R. 39 includes a number of provisions which authorize site specific selections for certain corporations and effect land exchanges and agreements worked out between various Native corporations, the Federal government, and the State.

3. S.9 as Reported --

The bill provides for immediate conveyance of core townships to Native corporations. However, the immediate conveyance procedure is optional, enabling those corporations which are currently being conveyed land under existing law to avoid the confusion of simultaneous legislative conveyance. In addition, the bill established an expedited procedure for conveying the remaining Native lands. Provisions regarding the implementation of ANCSA land exchanges are identical to those contained in H.R. 39.

II. TRANSPORTATION & ACCESS

There are three distinct areas of law encompassed by this heading:

(a) Major rights-of-way across Federal conservation units in the form of highways, pipelines, railroads, etc.;

(b) Access to private, State or Native lands located within Federal units; and

(c) Special access for traditional activities (e.g., hunting, trapping, rural travel, etc.) in conservation units requiring the use of airplanes, snowmobiles, and motorboats.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) Approval of highways, pipelines, railroads, and other transportation systems requiring rights-of-way over Federal land now requires time consuming and complicated determinations by the Secretary of Transportation and/or other agencies in conjunction with the Secretary responsible for administering the Federal lands over which the right-of-way is sought. In some cases, Congressional approval is required, although issuance of a right-of-way is usually governed by statute. The combination of decision-makers and the decision-making procedures vary with the type of transportation right-of-way applied for and the differing land designations which the proposed system will affect.

Under existing law, the land-managing Secretary frequently has the discretion to deny rights-of-way across conservation system units based upon a single criterion: the compatibility of the proposed right-of-way with the purpose of the affected land designation. Additionally, National Environmental Policy Act requirements and other statutes and regulations often demand long studies, lengthy decision-making processes, and judicial review. Moreover, if an application for a right-of-way is denied, the aggrieved applicant must prove that the Secretary acted in an arbitrary and capricious fashion to obtain judicial review.

This standard is a nearly insurmountable barrier which makes it extremely difficult to get courts to reverse Secretarial decisions.

(b) Access to inholdings within conservation system units is not well-defined in existing law. Recent Justice Department opinions assert that no right of access to inholdings within Federal lands is required by statute or common law. (Note: This does not apply to specific statutory rights granted to holders of mining claims.) The prevalent Federal view regards access to inholdings as a discretionary policy decision rather than a right.

(c) Presently, most traditional modes of access are permitted under the regulatory regime which governs the withdrawals in Alaska. However, there is no statutory guarantee that such access to areas shall be permitted in the future as the Secretary has virtually unfettered discretion to deny such access.

2. H.R. 39/Udall --

(a) Rights-of-way for transportation systems are governed primarily by existing law. In cases in which there is no authority to issue a right-of-way, the Secretary can recommend that the right of-way be issued and his recommendation will be considered by Congress. Applicants may also appeal to the President in cases where a land-managing Secretary denies a right-of-way permitted by existing law. In such cases, the President must make a determination, and that decision is subject to Congressional review.

(b) Access for inholders within or "effectively surrounded" by conservation system units is guaranteed but subject to reasonable regulation in H.R. 39. Inholders are granted assured access for economic and other purposes. Any party effectively surrounded shall have feasible access based on assessment of various environmental and economic factors.

(c) H.R. 39 provides for traditional modes of access via airplane, snowmobile, or motorboat. This provision contemplates that such modes of access should be permitted as a means of pursuing traditional activities on conservation system units.

3. S.9 as Reported --

(a) S.9 rewrites existing law and provides a comprehensive transportation title designed to streamline the various procedural requirements involved in obtaining rights-of-way for transportation or utility systems across Federal lands. The process has five major features: (i) The State and the Secretary of Transportation are involved in a special transportation planning process which impacts on the issuance of rights-of-way; (ii) The Secretary is directed to render decisions on applications within a specified

period of time; (iii) Decisions shall be made pursuant to nine specified criteria, including economic feasibility and environmental compatibility; (iv) Certain Secretarial decisions on rights-of-way are subject to Congressional review; and (v) All Secretarial decisions to deny a right-of-way are subject to expedited judicial review.

(b) Access for inholders within or effectively surrounded by conservation system units is guaranteed but subject to reasonable regulation in S.9. Inholders are granted assured access for economic and other purposes. Any party effectively surrounded shall have feasible access based on assessment of various environmental and economic factors. This bill emphasizes economic feasibility although the most economically feasible access is not mandated in every case.

(c) S.9 broadens the concept adopted in the House bill for ensuring traditional access. This access is subject to reasonable regulation, but the Secretary can prohibit access only where he can demonstrate that significant resource damage is being caused by access, and after he has held a hearing in that area affected.

III. HIGH COMMODITY RESOURCES

High-value commodity resources in Alaska impacted by the withdrawals and the pending bills include: (a) oil and gas, (b) hardrock minerals, and (c) timber products. The following outlines the effects of the status quo and the proposals on these resources.

1. Monuments/Executive Withdrawals (Existing Law) --

(a) These withdrawals encompass approximately 45 million acres of land with oil and gas potential. Under existing law, those areas within "emergency withdrawals" may be leased for exploration and developed at the Secretary's discretion; oil and gas activities are barred in the Monuments. In addition, areas recommended by the Interior Department for Wilderness (e.g., Arctic Range, Kenai Moose Range, etc.) are administratively closed to oil and gas exploration and development.

(b) Regarding hardrock minerals, two specific impacts are examined: (i) Impact on major existing mineral discoveries--five of the nine major discoveries (Picnic Creek, Mt. Prindle, Orange Hill, Greens Creek, and the U.S. Borax) are included in Monuments which preclude development. Moreover, access to the Arctic find in the Ambler district is blocked by the "boot" of the Gates of the Arctic Monument; and (ii) Impact on Mineral Districts--areas rated important for mineral development, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are withdrawn.

(c) Regarding Alaska's timber economy, approximately 6 million acres of de facto Wilderness are created within the Tongass National Forest. The withdrawal of these lands will reduce the annual allowable timber harvest to 360 million board feet per year (MMBF/YR) and eliminate up to 2,000 existing timber-related jobs.

2. H.R. 39/Udall --

(a) The units in the bill encompass nearly 40 million acres of land with oil and gas potential (not including NPRA). The Arctic Wildlife Range is designated Wilderness which bars exploration and possible future development. The National Petroleum Reserve - Alaska (NPRA) is classified as a Wildlife Refuge, but is to be opened for oil and gas leasing if the Secretary deems such leasing compatible with the Refuge purposes. However, leasing in NPRA shall not be conducted per existing law. Exploration and development are divided, and separate Federal approval would be needed before development of an oil discovery could proceed. Existing law requires no such two-step approval when one obtains an onshore oil and gas lease.

(b)(i) Four of the nine major discoveries are included within Parks, Preserves, Wilderness areas, Refuges, etc., (Mt. Prindle, Orange Hill, Greens Creek, and U.S. Borax*). While these designations are theoretically subject to valid existing rights, experience clearly indicates that it is nearly impossible to develop major mines within such areas; (ii) Areas rated important for mineral development, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are closed to mineral entry and development of existing claims effectively barred.

(c) H.R. 39 designates 5.9 million acres of Wilderness units within the Tongass Forest in Southeast Alaska. These wilderness designations will reduce the allowable cut to 360 MMBF/YR. A harvest reduction of this magnitude will eliminate up to 2,000 existing timber-related jobs. In an attempt to offset this employment impact, the bill authorizes an increased appropriation of \$8 million annually for improved forestry practices to increase timber yields on non-wilderness lands. However, even if these extra funds are appropriated each and every year, the cut can only be raised to 410 MMBF/YR, which is below harvest levels.

3. S.9 as Reported --

(a) Conservation units encompass approximately 25 million acres of land with oil and gas potential. The Arctic Wildlife Range is

*The Tsongas Substitute does contain provisions to permit development of the Borax molybdenum discovery, but the wilderness boundary is much closer to the claims and may create regulatory problems during development.

excluded from Wilderness and is subject to a five-year oil and gas study program to assess its oil and gas potential and to determine the conflicts, if any, between oil development and wildlife resources. The oil study is limited to geophysical and seismic work with Congressional approval required prior to any drilling or development work. Also, on the North Slope the status of the NPRA is unaffected by the bill.

In addition, the Secretary is directed to establish a program to facilitate oil and gas leasing on non-North Slope Federal lands outside conservation system units. Moreover, the Secretary is required to act on applications for oil and gas leasing on Wildlife Refuges (not designated as Wilderness) within a specified period of time.

Leases are to be issued pursuant to an environmental compatibility finding. However, the Secretary has the burden of proof of documenting the basis for denying an application--a change from existing law.

(b)(i) All nine of the major mineral discoveries are excluded from land designations which prevent development. However, three of the discoveries are in units where mining is specifically permitted but not guaranteed. In addition, a developed right-of-way across the Gates' "boot" is guaranteed to provide access to the Picnic and Arctic finds located in the Ambler district.

(ii) Areas rated important for minerals, such as Chulitna, Squirrel River, the Kilbuck Mountains, and the upper Ambler Valley, are transferred to State ownership or designated as multiple use areas and may be open to future mineral development.

In addition, S.9 provides a grace period for claim validation affecting holders of mineral claims located in BLM Conservation Areas and National Recreation Areas. Those holding claims within withdrawn units would be granted a grace period for perfecting their claims if such lands are later reopened to mining.

(c) S.9 designates 4.3 million acres of Wilderness within the Tongass Forest. It also creates 2 million acres of Special Management Areas (SMA's). Although timber within the SMA's is included in the Annual Allowable Cut calculation, no harvest can occur unless authorized by Congress after the ten-year study period. During the ten-year period, the Secretary of Agriculture is directed to monitor the timber industry and to report to Congress if the 520 MMBF/YR goal cannot be met without harvesting in the SMA's. SMA status is to be reviewed at the end of the ten-year period. The bill also authorizes \$12 million to improve timber practices and to aid in the harvest of marginally-economic timber. If these funds are available, the non-wilderness portions of the Forest will provide a cut of 520 MMBF/YR--without the funds the harvest will be 430 MMBF/YR. If cutting is never permitted

in the EMM's during the 100 year rotation and if no extra monies are appropriated, the cut will be reduced to 360 MMBF/YR at some point in the 100 year cycle.

IV. WILDLIFE MANAGEMENT

Wildlife management deals with the traditional relationship between the State of Alaska and the Federal government regarding wildlife management, particularly as it relates to State management of wildlife to insure adequate provisions for sport and subsistence uses.

1. Monument/Executive Withdrawals (Existing Law) --

(a) No provision affirming the traditional roles of the Federal and State governments is included among proposed regulations governing Monuments or other executive withdrawals.

(b) The proposed regulations governing the Monuments created by President Carter track the approach taken in the Udall bill, and in so doing the regulations provide for Federal oversight which means that after consulting with the State and making certain findings, the Secretary may involve himself in daily management of fish and game resources.

(c) Subsistence hunting is permitted in all Monuments except the Kenai Fjords units (sport hunting is prohibited in Park Service Monuments).

2. H.R. 39/Udall* --

(a) No provision affirming the traditional role of the State and Federal governments regarding wildlife management is included in the bill.

(b) H.R. 39 provides for a subsistence preference on Federal lands when a limitation on taking is required. The Secretary is directed to oversee State implementation of the subsistence preference and to notify the State of changes which he determines are necessary in that implementation. If the State does not make these changes, the Secretary shall close the area affected to all but subsistence uses. This may necessitate the setting of methods and means, bag limits, season lengths, and harvest quotas--all of which are traditional State prerogatives.

3. S.9 as Reported --

(a) A provision specifically reaffirming the traditional relationship between the State and Federal governments regarding wildlife management is included in the bill.

*The Tsongas Substitute more closely tracks S.9 in this area.

(b) S.9 provides for a subsistence preference, based on existing State law, when a limitation on taking is required. The Secretary is authorized to monitor State implementation of the subsistence preference. At the request of a local or regional advisory board, the Secretary shall ask for changes in the State's program if he/she makes specific findings that the subsistence preference is not being satisfied. The Secretary, after making certain findings, shall ask for judicial review of the State's program, but it shall only be limited to the specific regulation involved--not on a general basis. However, judicial action is limited only to that regulation involved and for the length of that regulation, which in many instances is only for an annual basis.

V. SPORT HUNTING

A. Land Closed to Hunting

1. Monuments/Executive Withdrawals (Existing Law) --

The existing withdrawals prohibit sport hunting on 42 million acres of Federal lands. These withdrawals include the Wrangells-St. Elias, Gates of the Arctic, Mt. McKinley additions, Katmai additions, and a number of other important sport hunting areas.

2. H.R. 39/Udall --

The House version of H.R. 39 bars sport hunting on 27 million acres of Federal land, including the Gates of the Arctic area and major portions of the Wrangells-St. Elias, Mt. McKinley, and Katmai additions.

3. S.9 as Reported --

The bill closes 22.2 million acres of Federal lands to sport hunting. However, sport hunting is allowed in major portions of the Gates of the Arctic, Wrangells-St. Elias, Katmai, and Mt. McKinley additions.

The following chart demonstrates the major differences among the three measures regarding which specific areas are open or closed to sport hunting:

ACREAGE OPEN TO SPORT HUNTING (In Millions of Acres)

	<u>S.9</u>	<u>H.R. 39</u>	<u>Monuments/ Executive Withdrawals</u>
Gates of the Arctic	3.2	-0-	-0-
Wrangells	4.3	3.3	-0-
Mt. McKinley	1.2	0.4	-0-
Katmai	<u>0.4</u>	<u>0.2</u>	<u>-0-</u>
TOTAL -	9.1	3.9	-0-

B. Other Hunting Provisions

1. Monuments/Executive Withdrawals (Existing Law) --

(a) Since there is no sport hunting allowed in the Monuments, there are no special regulations to permit hunting-related activities.

(b) Since there is no sport hunting allowed in the Park Service Monuments, the withdrawal regulations do not address the status of the hunting guides now operating in these areas. On non-Monument withdrawals, guiding remains subject to State regulation.

2. H.R. 39/Udall --

(a) There are no provisions which specifically permit hunting-related activities to continue in Preserves, Refuges or Wilderness areas.

(b) Subject to stringent criteria, guided hunting and trapping can continue for a ten-year period within National Parks & Monuments.

(c) Sport hunting is not a statutorily-designated use in the Refuges designated in the bill.

3. S.9 as Reported --

(a) The bill contains provisions ensuring that hunting-related activities, such as the construction of campsites, location of equipment caches, etc., shall be permitted within Preserves, Wilderness areas, Refuges, and other areas.

(b) The bill provides that the State of Alaska shall continue to regulate the guide industry. Additionally, there is no grandfather clause for guides included in Parks & Monuments.

(c) Sport hunting is statutorily recognized as a use for which Wildlife Refuges designated in the bill are to be managed.

VI. GENERAL MANAGEMENT PROVISIONS

In addition to those management provisions discussed in earlier sections of this comparative summary, S.9 and H.R. 39 make other important modifications to existing law. This section analyzes some of the most significant modifications of existing laws made by the two bills and how the modifications would affect future land use and management in Alaska.

A. Condemnation/Land Acquisition

1. Monuments/Executive Withdrawals (Existing Law) --

The existing laws which govern the National Monuments and executive withdrawals generally empower the land-managing Federal agencies with great discretion to acquire private inholdings on adjacent lands. Another issue involves the ability of the Federal government to condemn State inholdings and Native corporation inholdings without the consent of these entities. This issue is not clearly resolved in existing law and litigation is a likely possibility.

2. H.R. 39/Udall --

H.R. 39 provides immunity from involuntary condemnation for State lands and lands granted pursuant to the Alaska Native Claims Settlement Act (ANCSA). Under the bill, such lands cannot be condemned merely for the purposes of adding to a conservation system unit. State owned lands within or contiguous to conservation system units may be acquired by exchange. Condemnation of other private inholders is subject to Secretarial discretion.

3. S.9 as Reported --

The bill protects inholdings owned by the State, Native corporations and private individuals receiving title under ANCSA or the Native Allotment Act from involuntary condemnation for purposes of adding to a conservation system unit. Other private landowners are provided various degrees of protection under the bill. In each case, the Secretary is required to make a determination that the inholding is causing significant detriment to the purpose of the conservation system unit and must make a good faith effort to exchange other Federal lands for the inholding prior to undertaking condemnation and purchase procedures.

B. Cabins

1. Monuments/Executive Withdrawals (Existing Law)--

A sub-issue is that of cabins located on Federal (public) lands which have been closed to entry. In many instances, occupants of such cabins are legally trespassers and could be evicted under existing Federal law. However, proposed Monument regulations permit continued occupancy of some cabins in specified circumstances. Any permitted occupancy shall be strictly constrained to one and five year occupancy permits.

2. H.R. 39/Udall --

It does not deal with the problem of cabin occupancy. Presumably, cabin occupants would be treated as trespassers under existing law.

3. S.9 as Reported --

It codifies and improves upon the approach proposed in the National Monument regulations. Long-time occupants would be permitted to retain the use of their cabins so long as such use does not significantly impact the purpose of the conservation system unit. Occupancy is insured, subject to compliance with certain criteria, through the lifetime of the principal occupant or the continuous occupancy by the last surviving member of the immediate family currently living in the cabin.

C. Wilderness Management

1. Monuments/Executive Withdrawals (Existing Law) --

Under existing law, the Secretary may determine, subject to the provisions of the Wilderness Act, what uses may be permitted as compatible with Wilderness designations.

2. H.R. 39/Udall --

H.R. 39 authorizes very limited fisheries and aquaculture activities in Forest Wilderness only. However, fisheries enhancement is barred on approximately 61 million acres of other Wilderness. Existing and new public use cabins would be allowed in Forest Wilderness units, but would be prohibited on 61 million acres of Wilderness under other management systems.

3. S.9 as Reported --

S.9 permits a broader range of aquaculture, fisheries enhancement activities, and facilities on all Wilderness areas with the specific exception of 6.1 million acres of National Park Service Wilderness. Existing public use cabins would remain and be maintained in all Wilderness areas under this bill, and new cabins may be constructed as necessary for the protection of public health and welfare.

D. Exemption from Wilderness Review

1. Monuments/Executive Withdrawals (Existing Law) --

Existing law directs the Secretary of the Interior to apply Section 603 of the Federal Land Policy and Management Act to review each 5,000 acre tract of roadless Federal land in Alaska for possible Wilderness designation. In the interim, all affected lands would be managed as de facto Wilderness.

2. H.R. 39/Udall --

It does not exempt or lessen the burden on the Secretary to complete Wilderness reviews per Section 603 of all roadless areas on Federal lands in Alaska.

3. S.9 as Reported --

Section 1320 statutorily exempts Alaska from the mandatory Wilderness review provisions of Section 603. The Secretary retains discretionary power to recommend Federal lands for Wilderness designation, but is no longer required to do so.

Any recommendations for Wilderness can be implemented only through Congressional action.

E. Revocation and "No More"

These concepts refer respectively to:

(a) The revocation by Congress of the National Monuments and executive withdrawals imposed on Alaska in November and December of 1978;

(b) The requirement that any future Federal withdrawals for conservation system units in Alaska be granted only by act of Congress and not by executive or administrative action; and

(c) That the bill contain a Congressional policy finding that no more land withdrawals for conservation system units are needed.

1. Monuments/Executive Withdrawals (Existing Law) --

Obviously, imposition of these withdrawals in late 1978 created the need for such provisions.

2. H.R. 39/Udall --

H.R. 39 does not provide for either the revocation or the "no more" concept.*

3. S.9 as Reported --

S.9 revokes the National Monuments and executive withdrawals in the face of Congressional designation made in the bill. Thus, any lands currently within the monuments or withdrawals which are not within a conservation system unit established or expanded by S.9 are returned to the public domain or conveyed to the State, if selected.

The Senate Committee bill does not contain a provision requiring that future Federal withdrawals in Alaska for conservation system units be created only by act of Congress, but it does contain a policy finding that no more land withdrawals for conservation system units are needed.

*The Tsongas Substitute has a revocation clause but replaces the withdrawals with H.R. 39 units and boundaries.

CORNER ADMINISTRATIONALASKA LANDS PROPOSALLAND DESIGNATIONS:

<u>New Set Asides</u>	<u>mm. acres</u>
Parks	30.2
Preserves	12.9
Natl. Rec. Areas	-0-
Wildlife Refuges	49.8
Forests	3.3
Wild & Scenic Rivers	<u>2.0</u>
Subtotal	98.2

Wilderness

Existing Parks	7.0
New Parks	22.4
Existing Refuges	13.0
New Refuges	4.0
Existing Forests	<u>5.6</u>
Subtotal	52.0

Total Affected Lands

New Set Asides	98.2
Existing Areas/Wild.	<u>25.6</u>
TOTAL	123.8

COMPARISON OF SPECIFIC AREAS:Gates of the Arctic

Park	8.22
------	------

Arctic Wildlife Range

Existing Refuge	8.8
Addition	<u>9.5</u>
Total	18.3
Wilderness	8.8

Wrangells/Tetlin Complex

Park	9.6
Preserve	2.5*
NRA	-0-
Refuge	<u>0.8</u>
	12.9

*Includes 2 designated Mineral Management Zones

Yukon Delta Refuge

Refuge

10.6

Misty Fiords

Wilderness

2.3

2.3

OIL & GAS:

Arctic Range coastal plain is designated "instant wilderness" along with remainder of unit.

Non-wilderness refuges technically open to leasing per existing law.

Approximately 5 mm. acres of potential oil and gas lands statutorily closed.

STATE LANDS:

6 mm. acres of valid existing Statehood Act lands included as inholdings in new units

12 mm. acres of contested Statehood Act land selections denied to State.

No legislative conveyance provisions.

MINERALS:

Closes 117 mm. acres to mineral entry.

3 of 7 world-class mineral finds identified by Stanford Research Institute are finds included in wilderness areas, Green's Creek, Picnic Creek, & U.S. Borax.

Refuges statutorily closed to mining - a change from existing law, which vests discretion with Secretary of Interior upon a finding of compatibility with refuges' objectives.

65% of highly-favorable mineral areas closed.

SPORT HUNTING:

Closes 30.2 mm. acres to sport hunting.

Closes important hunting areas in Gates of the Arctic, north of Katmai, west of Lake Clark, north Wrangells, etc.

TIMBER & JOBS -
TONGASS FOREST:

5.4 mm. acres of Tongass are designated wilderness and are thereby closed to logging.

Provides 150 mm. board feet (MBF), less than needed to preserve existing job levels. Offset job loss by legislation for \$12 mm. annual subsidy to local timber industry.

TRANSPORTATION AND ACCESS:

Relies almost completely on existing law.

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

CARIBOU AND OIL
SEPTEMBER 1979

Issue

The continued viability of Alaska's caribou herds concerns Alaskans and other conservationists who recognize that the caribou's well-being basically depends upon its habitat. Arctic Alaska supports large caribou herds and probably contains large oil reserves. The possible impact of oil exploration and development on caribou in Arctic Alaska is at issue.

Background

The question of the potential effects of oil exploration and development vs caribou population welfare has no simple, black or white answers. At present, there are relatively few data on the matter. However, it is important to recognize that exploration and development are two very different considerations in relation to caribou.

Exploration, because it does not require the extensive permanent supporting structures of development, and because restrictions on seasonal activities can be imposed, can probably be accommodated in most circumstances without significant impact.

Development generally involves permanent structures and human activity that may influence caribou behavior, movements and habitat use to some degree, depending on the location and design of the structures, as well as the level of human activity.

The following discussion elaborates on observations concerning the relationship of exploration and development to caribou or reindeer welfare.

Exploration: Right now, there are relatively few data to shed light on the effects of oil exploration on caribou, but there are some Alaskan experiences:

1. Oil exploration in the National Petroleum Reserve-Alaska (NPR-A) in the 1950s over extensive areas, but with little intensive work. Apparently did not preclude growth of the Western Arctic Caribou Herd, which reached 240,000 animals by 1970. The exploration was partly a winter operation, and did not involve the calving area heavily;
2. Exploration of Prudhoe Bay apparently did not preclude caribou use of that area. State studies did not begin until well after initial exploration was done and industry was gearing up for production. Caribou were using the area at that time and still are.
3. Current Federal exploratory programs in the NPR-A do not appear to have interfered with caribou use of the range thus far. However,

State studies suggest that activities that may affect caribou during spring and summer should be minimal and cautious.

Development: Experience in Scandinavia and Russia suggests that roads, powerlines, railroads, pipelines and reservoirs can permanently discourage reindeer use of some migration routes and associated ranges. Several areas in Eurasia where development occurred are no longer used by reindeer, but a clear casual relationship has not been demonstrated. State studies at Prudhoe Bay show reduced use of the oil field area by cows and calves. Also, fewer caribou in total pass through or use the area, probably because the Western Arctic Herd, part of which sometimes used the area, declined for other reasons during this time. Similarly, studies along the Arctic Slope route of the Trans-Alaska Pipeline show avoidance of the corridor, particularly by cows with calves; traffic and activity have apparently discouraged local range use. In other places, caribou have been seen to turn away from or delay in crossing a road when traffic was heavy or shooting was occurring nearby. Overall, it appears that the level of use of a development structure may contribute more to disturbance of caribou than the structure itself.

On the other hand, over the last 50 years, caribou herds in Alaska have crossed several different roads routinely during their semi-annual migrations. The Nelchina Herd crosses the Trans-Alaska pipeline corridor in an area where it is a new feature paralleling the Richardson Highway, which they have crossed for years. Caribou herds have migrated not only across roads, holding up traffic, but right through villages. Also, caribou population at Prudhoe Bay, known as the Central Arctic herd, has stayed at about 5,000 animals for 10 years -- since the beginning of development at Prudhoe Bay.

We still have not identified all of the factors that affect caribou movements across either natural or artificial barriers, nor is it clear how some of these factors operate. We do know that insect harassment, weather, seasonal migratory urges, herd size, and the individual caribou's sex and age all influence how tolerant caribou are of natural or artificial objects and disturbances. While some caribou are capable of coping with very unnatural surroundings, as at Prudhoe Bay, their tolerance doesn't guarantee the population's long-term success. The trans-Alaska Pipeline in addition to being a major structure and essentially a permanent fixture, is a 30-year (or more) experiment on the effects of development on caribou welfare; its long-term effects on caribou cannot be firmly predicted now. A possible concern with development in general is that, while a single structure or program may be innocuous, an accumulation of developments and their associated uses may be harmful.

The State of Alaska's Position

The State of Alaska has the greatest interest in ensuring the welfare of caribou in the Arctic because of the caribou's material, scientific, ecological, and/or cultural value to Alaskans, Americans, and to others. At the same time, the State's position is that before making final decisions on various resource use alternatives, including oil and gas reserves, the nature and extent of the resources involved must be known if informed decisions are

to be made. For this reason, the State has supported the concept of baseline studies to determine the characteristics and needs of wildlife, the potential oil and gas reserves, and the relationship of these considerations to possible development modes. Such studies should adhere to stipulations which ensure the environmental integrity of the area involved. The State believes that a program which provides significant new information on the biological and energy resources of Arctic Alaska, and on the possible developmental needs or limitations, would be most helpful to Congress in its deliberations.

A carefully planned resource assessment program, with Congress making the ultimate decision with respect to development, seems far superior to the provisions of the Udall-Anderson bill. The Udall-Anderson bill, by designating the entire Arctic National Wildlife Range as "instant" wilderness, would preclude obtaining any additional information on oil and gas resources. As a consequence Congress would be denied data relating to the most promising unexplored petroleum province on the North American continent. The State of Alaska believes that implementation of a systematic, environmentally sensitive study now could avoid panicky, damaging exploration and possible development during some future petroleum crisis. A planned program seems preferable, and feasible since the chief area of concern is a small part of the Arctic coastal plain within the Arctic National Wildlife Range, and is used by caribou as a calving - post-calving area for only six to eight weeks each summer.

**: PLEASE NOTE: THE PRECEDING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.**

TO: Honorable Jay S. Hammond, Governor
FROM: John W. Katz, Special Counsel
DATE: April 1, 1980
SUBJECT: Legal Opinion on the Fairness Doctrine

For your review, I am enclosing a copy of the legal opinion which you asked me to obtain relative to the possible application of the Fairness Doctrine of communications law to any broadcast advertising which may be undertaken by the State in connection with the Alaska lands issue.

As you will notice, the opinion concludes that significant problems may exist. Thus, it is likely that many broadcasters would refuse to accept advocacy oriented advertising on an issue as controversial as the pending lands legislation. Those broadcasters which do accept such advertising may feel compelled to provide time, with or without charge, to persons with opposing points of view. These conclusions confirm some of the concerns which we discussed recently with the Lieutenant Governor and Bob Miller.

If I can be of any further assistance in your consideration of the issues discussed in the accompanying opinion, please let me know.

cc: Lieutenant Governor Terry Miller
Avrum M. Gross, Esq.
J. Roger Wollenberg, Esq.
Mr. Jerry Reinwand
Mr. Don Argetsinger
Mr. Bob Miller
Thomas E. Meacham, Esq.
Mrs. Ron Mierzejewski

APR 15 1980



STATE OF ALASKA
OFFICE OF THE GOVERNOR
ANCHORAGE

For your information.

From: John W. Katz
Special Counsel to the
Governor

The Fairness Doctrine establishes a two-pronged obligation designed to insure that the American people are fully informed by the broadcast media on important public issues. Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 377-78 (1969). First, television and radio stations are expected to devote a significant percentage of their operating time to coverage of controversial issues of public importance. Second, when a station presents a viewpoint on a controversial issue of public importance, it must provide reasonable opportunity in its overall programming for the presentation of contrasting points of view on such issue. It is this part of the doctrine that is the usual source of controversy and that is most likely to bear on the State's ad campaign.

When a broadcaster decides to present one side of a controversial issue, the obligation to provide a "reasonable opportunity" for the presentation of contrasting views does not mean that he must give "equal time" to opposing viewpoints. Nor does it mean that any particular person or organization may demand a right to reply or that the opposing view must be presented at a particular time or in a particular format. Rather, the Commission looks to see whether the broadcaster's overall programming reflects a reasonable balance in the presentation of contrasting views. The keystone of the Fairness Doctrine

is preservation of the broadcaster's ability to make editorial judgments as to how best to present the opposing sides of an issue. The Commission will uphold a broadcaster's judgment as long as it is made in good faith and is reasonable. Fairness Primer, 40 F.C.C. 598, 599 (1964).

Turning to your specific inquiries, we assume that the regulation and disposition of federally-owned lands in Alaska is a controversial issue of public importance. The FCC has ruled that acceptance of "editorial" advertising, in which the advertiser presents a position on a public issue, raises the same fairness obligation as would presentation of one side of an issue in a news program or an editorial. Fairness Report, 30 P&F Radio Reg. 1261, 1290-92 (1974). Any station that accepted an advertisement setting forth the State's position on the pending legislation would therefore have an obligation to provide a reasonable opportunity for the presentation of conflicting views. This need not take the form of comparable spot advertising, however; it is only necessary that the broadcaster's overall programming reflect reasonable coverage of the opposing views. Thus, in the Wilderness Society case, 31 F.C.C. 2d 729 (1971), the Commission found that, in effect, a series of ads

on the NBC television network by Standard Oil of New Jersey (ESSO) about development of oil resources in the Arctic took a position favoring the construction of the Trans-Alaska Pipeline. But the Commission held that the ESSO ads were effectively balanced by presentation of opposing views on other NBC programs, particularly the "Today Show."

It is clear that a station may not escape its fairness obligation on the grounds that no one is willing to pay for countervailing ads, or to sponsor a program on which the opposing side is presented. Red Lion Broadcasting Co., supra; Cullman Broadcasting Co., 40 F.C.C. 576 (1963). Thus, it is possible that a station might choose or find itself compelled to meet its fairness obligations by offering free time to opponents of the State's position on the Alaska Lands legislation.

You have advised that the Alaska Lands issue has already been the subject of a substantial volume of discussion in newspapers and other media by the President (who says he has made the issue his first environmental priority), other public officials, and newspaper editorials. That discussion would not give rise to an obligation under the second prong of the Fairness Doctrine to present opposing views on broadcast stations, but might be deemed

to give rise to an obligation under the first prong of the Fairness Doctrine simply to provide balanced coverage of the controversy. Were the State to engage in a print media campaign, the fact that the State has taken print ads would not, in and of itself, be likely to make the Alaska Lands issue one that television and radio stations are required to cover under the first prong of the Fairness Doctrine. In any event, any such obligation would not be the result of the fact that the State had participated in the public discussion of the issue through a print ad campaign; it would be the result of a conclusion based on the sum total of public discussion of the issue by the State and all others.

The fact that a station takes an editorial position on the Alaska Lands bill does not alter the substance of the station's fairness obligations, although the FCC may be inclined to take a harder look where the position being expressed is that of the broadcaster. Though stations usually invite replies from "responsible" individuals, the discretion to decide which individuals to permit to respond, and how to present the response, remains with the station.

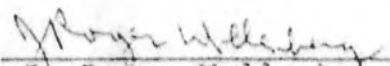
Finally, we note that many television and radio stations, as well as the television networks, generally

follow policies of not accepting "editorial" advertisements, i.e., paid statements of positions on issues, except those made in connection with election campaigns. These policies flow, in large part, from the difficulties such advertisements present for broadcasters in meeting their responsibilities under the Fairness Doctrine. The Supreme Court has upheld the right of television and radio stations to adopt these policies, essentially because a system of mandating access would in effect grant to the advertiser a large degree of control over how issues are to be presented, thus intruding on broadcaster discretion under the Fairness Doctrine and the First Amendment. Columbia Broadcasting System, Inc. v. Democratic National Committee, 412 U.S. 92 (1973).

In sum, we conclude that a paid broadcasting campaign by the State could trigger Fairness Doctrine obligations which might lead stations to give free time to opponents of the State's position. And we note that many stations and networks would not accept such paid advertising.

WILMER & PICKERING

By


J. Roger Wollenberg



STATE OF ALASKA

OFFICE OF THE GOVERNOR

JUNEAU

March 27, 1980

The Honorable Forrest H. James, Jr.
Governor, State of Alabama
State Capitol Building
Montgomery, Alabama 36104

Dear Governor James:

This correspondence is written to request your assistance with respect to an issue of vital importance to my State--the Alaska lands legislation now pending in Congress.

Last May, the U.S. House of Representatives passed an Alaska lands bill sponsored by Congressmen Udall and Anderson. For the reasons indicated in the accompanying critique, we believe that this legislation is unsatisfactory from both federal and state points of view. From a federal perspective, enactment of the Udall-Anderson bill would severely jeopardize even the most environmentally-sensitive exploration and development of Alaska's energy and other mineral resources, which are of such critical importance to the domestic security and economic stability of the nation.

From Alaska's point of view, the Udall-Anderson bill would impose severe impacts on land transfers to the State under the Alaska Statehood Act, transportation and access, the traditional Alaskan lifestyle, and other concerns which would be expressed by the citizens of any state in similar circumstances. These concerns are discussed in greater detail in my most recent correspondence to Senators and in a resolution enacted by the State Legislature last year. Copies of this material are enclosed for your ready reference.

Last November, the Senate Committee on Energy and Natural Resources, after numerous hearings and markup sessions held over a two year period, reported an Alaska lands bill by a vote of 17-1. While I have certain problems with this measure, we believe that it is far superior to the Udall-Anderson bill and the counterpart of that legislation now pending in the Senate.

Like all current measures, the committee bill is a strong and highly protective piece of environmental legislation. Yet, this bill would help assure the necessary assessment of Alaska's

The Honorable Forrest H. Jones, Jr.
March 27, 1980 - Page Two

energy resources. In addition, certain concerns expressed by the State Legislature in its resolution are fully satisfied, and others could be accommodated with relatively small amendments. To provide you with additional information on the committee bill, I am enclosing an analysis which contrasts this legislation to other pending measures and to existing law.

Shortly after the Senate Energy Committee reported its bill, Senators Tsongas and Roth introduced a complete substitute. While this measure differs in certain technical and cosmetic respects from the Udall-Anderson bill, it is virtually identical in all important respects. Accordingly, we believe that the Tsongas substitute would have the same deleterious impacts on federal and State interests that would result from enactment of the Udall bill.

Last month, the U.S. Senate entered into a time agreement setting forth the rules for debate and amendment of the Alaska lands legislation. Under the agreement, the Alaska issue will not be considered by the Senate before some time in late July. Although this date seems far off, Alaska must continue to do everything we can to obtain support for the legislation reported by the Senate Energy Committee, perhaps with a few amendments that may be proposed by Senators Stevens and Gravel. (The content of these amendments is still under discussion.)

Accordingly, I am writing to you now to ask for your help. If you are persuaded by the State's position, as outlined in the material which is enclosed, I would deeply appreciate your contacting Senators Stewart and Heflin to request their help and support for our position. Specifically, I would appreciate your asking them to support the committee bill and to oppose the Udall-Anderson and Tsongas measures. In addition, please urge them to vote against crippling amendments that will probably be proposed by Senator Tsongas, for the net result of the Senate's adoption of two or three key amendments could well be to convert the committee bill into legislation substantially similar to the Udall measure. So that we can relate the request which I am making in this correspondence to other components of our legislative efforts, I would appreciate your advising me of what action, if any, you decide to take as a followup to my letter.

Thank you for your consideration of my request. If we can be of any further assistance in your analysis of the Alaska lands

The Honorable Forrest H. James, Jr.
March 27, 1980 - Page Three

legislation or the parliamentary situation which currently exists in the Congress, please call me at 907-465-3500 or my Special Counsel, John W. Katz, at 907-278-2502.

Sincerely,

Jay S. Hammond
Governor

Enclosures

P.S. To apprise you more fully of the various facets of the Alaska lands issue, I am enclosing other material which may be of interest. As you will notice, this information emphasizes the impact on Alaska's energy resources.

The energy issue is multi-faceted and complicated, but one crucial aspect is clear. The Udall-Anderson and Tsongas bills would foreclose even the most environmentally sensitive exploration of the coastal plain of the William O. Douglas Arctic Wildlife Range (formerly known as the Arctic National Wildlife Range). This coastal area is probably the most promising, unexplored petroleum province in North America.

Also included in the accompanying material are two documents which refute a number of myths about the pending legislation, particularly the gross distortion that 95 percent of Alaska's oil and gas resources would be available for exploration and development under the Udall and Tsongas bills. This material also discusses impacts on the conveyance of lands to the State under the Alaska Statehood Act, an unfulfilled federal promise made some twenty years ago, and on other concerns of vital importance to the citizens of my State.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED
AS A UNIT IN THE ORIGINAL DOCUMENT.

MAY 10 1980

STATE OF ALASKA
OFFICE OF THE GOVERNOR
ANCHORAGE

Katz
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file

TO: Legislative Oversight Committee on Alaska Lands

FROM: John W. Katz *JWK*
Special Counsel to the
Governor

SUBJECT: Accompanying material

DATE: May 9, 1980

Enclosed please find a complete packet of our most recent material concerning the pending Alaska lands legislation and related matters. This material reflects our work with Alaska's Senators and our own summary and analysis of certain issues. For your convenience, I have included a table of contents which briefly describes each document that is enclosed.

Much of the accompanying material is now being used by our lobby team and media people. Currently under preparation is a more in-depth analysis of the Tsongas amendments. When this analysis has been completed, I will forward you a copy.

In the interim, if you have any questions or comments, please let me know.

JWK/dw

Enclosures

cc: Governor Jay S. Hammond
Lieutenant Governor Terry Miller
In-State Mailing List
Alaska Media

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

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ALASKA D-2 LANDS

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For Immediate Release

GOVERNOR HAMMOND SAYS TSONGAS AMENDMENTS

ENDANGER ALASKA'S ABILITY TO PROVIDE MORE ENERGY

JUNEAU, ALASKA, May 8, 1980--Alaska's Gov. Jay S. Hammond warned today that Alaska's ability to contribute further to America's energy and mineral supplies could be endangered if Alaska lands legislation pending in the U. S. Senate is amended as Sen. Paul Tsongas, D-Mass., has proposed.

Amendments to the Senate Energy and Natural Resources Committee legislation are now being circulated under the terms of a time agreement, and Senate floor action is expected immediately following the July congressional recess.

Hammond said the five amendments proposed by Sen. Tsongas obviously are designed to turn the Senate Committee bill into nearly the same legislation which was passed last year by the House in terms of management designations and boundaries, and which is unacceptable to most Alaskans.

"The House-passed bill is not in the nation's best interest since it does not provide for rational resource development in concert with adequate environmental protection," Hammond said.

Alaska's chief executive said he had reviewed the Tsongas amendments and found them to be a "warmed-over" version of the Udall-Anderson bill, which was passed by the House.

"Sen. Tsongas' amendments approximate major provisions of the Udall-Anderson bill creating parks, wildlife refuges and wilderness areas," Hammond said. "Therefore, generally, the same impacts would result, particularly

(more)

with respect to impacts on energy and mineral resources, transportation, sport hunting and other concerns. These impacts should be of critical concern to the nation as well as to Alaska, because significant national objectives, such as some measure of energy independence, could be seriously thwarted."

The governor pointed out that Alaska now provides the U. S. with 1.6 million barrels of oil daily, representing 13 per cent of all U. S. production, and that amount could be increased with environmentally-safe exploration in areas of high potential.

"The Udall-Anderson bill renders that kind of rational exploration virtually impossible," Hammond said, "and the Tsongas amendments would have nearly the same effect on the Senate legislation."

Hammond said it appears to him that the Tsongas amendments are designed to avoid the convening of a conference to reconcile differences between the Senate and House legislation.

"In my opinion, important federal objectives would not be best served if the Tsongas amendments were passed merely to avoid a conference with the House," Hammond said. "The Senate Energy Committee bill is already a carefully balanced and environmentally-sound piece of legislation. It doubles or triples the size of the national park systems, wildlife refuge systems and wilderness systems in the U. S., and, at the same time, it addresses other important concerns, particularly the nation's need for secure sources of energy and minerals."

Hammond said the six amendments offered by Alaska's two senators, Ted Stevens and Mike Gravel, are modest in terms of the overall bill, but are of great importance to most Alaskans. He said adoption of the amendments would not significantly affect the careful balance which has been struck in the Committee bill.

(more)

The three amendments offered by Sen. Stevens would:

- Provide Congressional oversight for major modifications of areas established or expanded by the legislation and require congressional approval for future major executive withdrawals of certain public lands in Alaska;
- Clarify the role of the State of Alaska regarding fish and wildlife management to guarantee that Alaska enjoys the same management prerogatives as those enjoyed by other states;
- Permit an exchange of State lands in and adjacent to the Arctic National Wildlife Range in consideration for certain federal land in the White Mountains/Steese areas, and approve a small number of existing homesteads to clear up confusing land status.

The three amendments offered by Sen. Gravel would:

- Redesignate two million acres of National Parks to national preserves to provide for the continuation of sport hunting, trapping and guiding;
- Address mining claims and access provisions to enable owners of unperfected mining claims to have access and to "prove up" their claims, and also to provide for an access procedure to supplement the transportation and utility title now in the Committee bill;
- Establish procedures for handling submerged lands in the conveyance of Native lands under the terms of the Alaska Native Claims Settlement Act.

Hammond said opponents of the Senate Committee bill are pointing to Alaska's current treasury surplus and new tax laws as reasons for the Congress to ignore Alaska's special land concerns.

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"They ignore the fact that historically Alaska has had the highest rates of inflation, unemployment and cost of living in the nation, as well as grave economic and social problems which have seen a proliferation of bankruptcies and thousands of persons departing the state," Hammond said. "Other states choose to address their problems by increasing government programs and bureaucracies. We could have done the same and no one would have noticed. Instead, we Alaskans chose to permit the people to determine how part of their oil wealth was to be spent, rather than having Big Brother do everything for them."

The new tax laws in Alaska are not related in any way to the pending lands legislation in Congress, he said, adding that Alaska is asking no more from the federal government in the way of a lands settlement than would the responsible citizens of any other state in similar circumstances.

"Linking the two issues ignores not only Alaska's concerns, but also ignores national concerns such as energy and minerals independence," Hammond said.

The governor also took issue with the charge that the state is engaged in a multi-million dollar media campaign on the lands issue.

"Last year we started news media and other informational activities, and much of the focus was within Alaska to explain the issue to Alaskans," the governor said. "We are continuing those activities this year both in Alaska and nationally in order to bring the nation's attention to the crucial issues involved in the pending legislation."

"As a state, our budgetary processes are totally open and subject to the scrutiny of the public," Hammond said, "and I suspect we have spent less than most of the environmental organizations involved in the Alaska lands issue."

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STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

ALASKA LANDS LEGISLATION

State of Alaska's Support of Certain Amendments
May, 1980

Unfortunately, the Alaska lands legislation is often perceived as a vote on the Arctic National Wildlife Range and one or two other issues. For the State of Alaska, there are several additional concerns.

These concerns have been articulated by the State Legislature in a resolution which requests no more from the Federal government than would the citizens of any state in similar circumstances-- conveyance of state and native lands; reasonable access across Federal lands; continuing State management of fish and resident wildlife; maintenance of the traditional Alaskan lifestyle; exclusion of high-value commodity resources from restrictive conservation units; replacement of national monuments and certain other executive withdrawals with reasonable Congressional designations; and administrative forbearance from the creation of new conservation units without Congressional concurrence.

If a reasonable Alaska lands bill is enacted, Alaska could contribute much to the energy and mineral requirements of the nation. In addition, achievement of the objectives set forth in the Legislature's resolution is extremely important to the socio-economic development of Alaska and to fulfillment of our Statehood Act compact with the Federal government.

Of the possible legislative and other alternatives, the State strongly supports the Alaska lands bill reported by the Senate Committee on Energy and Natural Resources by a vote of 17 to 1. This measure is the product of numerous hearings and markup sessions held over a two-year period. Like all pending Alaska lands legislation, the Committee bill is a very strong environmental measure. Yet, it also addresses several other Federal and State concerns. Far better than any other pending bill, it strikes a balance between objectives which could otherwise be in conflict.

The accompanying amendments to the Energy Committee bill have been proposed by Senators Stevens or Gravel, and have the strong support of the State of Alaska. In the main, these amendments make modest changes in the Committee bill. The changes, which are discussed in the explanatory material which follows, do

not deal with issues which have received most of the public attention. Rather, the proposed amendments concern issues of great importance to Alaskans in terms of the consensus points articulated by the State Legislature. It is the State's opinion that these amendments can be adopted without significantly affecting the careful balance which has been struck in the Energy Committee bill. Accordingly, we urge the support of the Senate.

Within the next few days, the State will provide Senators with an analysis of amendments proposed by Senator Tsongas.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

Alaska Lands Legislation

Summary of Amendments Offered by
Alaska Senators Ted Stevens and Mike Gravel
May 9, 1980

According to a time agreement regarding consideration and amendment of Alaska lands legislation on the Senate floor, each of Alaska's Senators is allowed to offer three amendments to the lands bill reported by the Senate Energy and Natural Resources Committee. The following is a brief summary of the amendments proposed by Senators Stevens and Gravel.

The three amendments offered by Senator Stevens are:

1. The first amendment would refine several provisions of the Senate Energy Committee bill to further clarify the Committee's policy with respect to fish and wildlife management. The amendment seeks to preserve traditional federal-state relationships concerning habitat management and species regulations, respectively. With one possible exception relating to the construction of aquaculture sites, the amendment is deemed to be technical in nature, although it is very important to Alaskans. The amendment has been developed in consultation with a number of groups, including the State of Alaska, the Alaska Federation of Natives, and certain sportsmen's organizations.

2. The second amendment would authorize an exchange of lands between the State and Federal governments. If approved by the Alaska Legislature, the State would exchange lands containing important wildlife habitat which would become part of the Arctic National Wildlife Range for title to Federal lands in the White Mountains and the adjacent Preacher Creek drainages near Fairbanks. In addition, pursuant to procedures already included in the bill for Native allotments, the amendment would approve a small number of homestead entries totalling approximately 38,000 acres, and as a consequence, would resolve a number of land status problems.

Benefits to the Federal government from the land exchange would include Federal ownership of the U.S. habitat of the Porcupine caribou herd, an internationally important wildlife resource. In addition, the State would receive lands which are located on the existing road system, are the subject of heavy recreational use by Fairbanks residents, and are highly mineralized.

3. The third amendment would require that except as specifically provided in the lands legislation, any new Federal studies, designations, or withdrawals in excess of five thousand acres be authorized by Act of Congress. The amendment would not affect provisions of the bill which authorize specific boundary adjustments by the Secretary, nor would it affect the Secretary's authority under other Federal laws to make emergency withdrawals and other withdrawals which do not exceed five thousand acres in size. The amendment would also insure that except for minor boundary adjustments, a subsequent Act of Congress would be required to alter boundaries established in the bill.

The amendment is predicated on the conception that once Congress has enacted a comprehensive lands bill, the executive branch should not be permitted to "second guess" this Congressional decision making by effecting further withdrawals without Congressional approval. A similar concept was enacted for the State of Wyoming in the aftermath of the Grand Tetons National Monument. The proposed amendment also addresses Congressional concern about the executive withdrawal process, as such concern is reflected in recent public land laws.

The three amendments offered by Senator Gravel are:

1. The first amendment would redesignate approximately two million acres of proposed national park areas as park preserves. The preserve designations would be managed by the Park Service just like national parks, except the sport hunting, trapping, and guiding activities would be permitted to continue under regulation. Although certain areas would be excluded from pure park designation where existing uses are significant, many areas containing exceptional wildlife resources would remain in the 20+ million acres of parks established by the bill. Thus, less than ten percent of the lands designated as national parks by the Committee would be affected. These lands lie adjacent to areas which are open to hunting under the Committee bill. The amendment is strongly supported by the National Rifle Association and several other sportsmen's organizations.

2. The second amendment would enable the holders of unpatented mining claims which have been maintained in compliance with applicable federal and state laws a short moratorium period of four years in which to prove up their claims. Under existing law, miners have no certainty of land tenure during the discovery process. The massive conservation units which would be established by the lands legislation and other unique factors exacerbate this deficiency. The amendment would not validate existing claims, nor would it apply to future entries.

A second feature of the mining amendment would insure a miner's ability to obtain surface use rights for milling and other activities necessary to produce minerals from a valid claim.

Certain technical changes (the most important is designed to effectuate Committee intent in park recreation areas) would also be effected by the amendment.

The only geographic amendment relating to mining would remove approximately 46,000 acres on the periphery of the proposed Kanuti Wildlife Refuge. This area is believed to contain important deposits of chromium and tin, which are classified as strategic minerals necessary for national security purposes.

The amendment would also provide for an access procedure to supplement the transportation and utility title now in the Energy Committee bill. Under the procedure, the State, and only the State, would be granted some access route across conservation system units after economic and environmental study within a certain time. The present primitive transportation and utility system in the state, the large amounts of Federal lands proposed for conservation systems, and the need to transport energy and other commodity resources necessitate these special provisions.

3. The third amendment would establish certain technical rules for computing Native land entitlements to submerged lands located beneath non-navigable waters. The objectives of the amendment are to reduce conflict and litigation, retain wetland areas in public ownership, and bring certainty to the Native conveyance process. A version of the amendment has been agreed to by the State, the Department of the Interior, and various Native groups, and is included in other pending Alaska lands legislation. While all parties are agreed that the amendment addresses a significant problem that can only be rectified by legislation, additional changes may be made in the mechanisms for achieving the desired objectives.

The amendment also includes certain non-controversial or technical provisions relating to Native land conveyances.

CONGRESSIONAL OVERSIGHT OF FUTURE EXECUTIVE ACTIONS

Explanation

One of the goals of Congress in enacting Alaska lands legislation is to stabilize an uncertain land situation in Alaska and to establish congressionally-mandated management principles for Federal lands dealt with by the legislation. The passage of this legislation should bring a conclusion to the process of ad hoc executive withdrawals of Federal lands in Alaska, actions which have in the past withdrawn the most massive areas of land in the nation's history.

The amendment's purpose is to recognize that Congress has conducted a long and thorough process in its passage of Alaska lands legislation and that major change of any nature in the status of Federal lands in Alaska should be dealt with only by Act of Congress. The amendment provides that any modification or revocation of the areas established by Congress, unless specifically authorized by a provision of the Alaska lands bill, must be accomplished by Act of Congress.

Drawing on policy decisions enunciated by the Federal Land Policy and Management Act, the amendment requires that any new studies, designations, or withdrawals in excess of 5,000 acres must first be authorized by Act of Congress. This requirement is consistent with the evolution of public land which has limited the unilateral power of the executive branch to withdraw large, permanent areas of Federal land. The proposed amendment preserves the provisions of the bill which authorize specific boundary adjustments by the Secretary. The Secretary's authority under the Federal Land Policy and Management Act to make emergency withdrawals and other withdrawals which do not exceed 5,000 acres in size is also unaffected.

This amendment is a very necessary component of the State of Alaska's position on the Alaska lands issue and support of the amendment's principles has been articulated by a resolution from the Alaska State Legislature.

A technical correction is contained in this amendment to extend the revocation provisions now in the bill to the new wildlife refuges which the Secretary utilized under Section 204(c) of FLPMA in February of this year.

Purpose: To provide Congressional oversight for major modifications
of areas established or expanded by this Act and to require
Congressional approval for future major executive withdrawals
of certain public lands in Alaska
IN THE SENATE OF THE UNITED STATES— _____ **Cong.,** _____ **Sen.**

S. _____
H.R. _____ **(or Treaty** _____ **)**
_____ **SHORT TITLE**

(title) _____

☐ Referred to the Committee on _____
and ordered to be printed

☐ Ordered to lie on the table and to be printed

INTENDED to be proposed by MR. STEVENS _____

Viz: Page 645, line 25, add the following new section and
renumber other sections accordingly:

1
2 CONGRESSIONAL OVERSIGHT OF FUTURE EXECUTIVE ACTIONS

3 Sec. 1324. (a) No boundaries of any area established
4 or expanded by this Act may be revoked or modified unless
such modification is specifically authorized by this Act
or by a subsequent Act of Congress.

5 (b) Notwithstanding any other provisions of
6 law, no further studies, designations, or withdrawals of
7 Federal lands in excess of 5,000 acres in Alaska except
those authorized by this Act shall be conducted or made
unless authorized by Act of Congress.

8 Title XIII:

9 Page 644, line 18, strike "and".

10 Page 644, line 18, following "1978", insert the following:

11 "Public Land Orders numbered 5696 through 5711
inclusive of February 12, 1980."

12
13
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22

FISH AND WILDLIFE MANAGEMENT AMENDMENT

Explanation

The fish and wildlife resources of the public lands in Alaska are of national and international significance. The conservation of these important resources is dependent upon the development of a workable relationship between the State and Federal governments regarding fish and wildlife management. The purpose of this amendment is to refine the language of several provisions of the Alaska lands bill to further clarify policy decisions made by the Senate Energy and Natural Resources Committee with respect to fish and wildlife management. The provisions of the amendment focus on three areas: general fish and wildlife management provisions, subsistence management and use, and aquaculture. Brief descriptions of these provisions follow:

General Fish and Wildlife Management: These provisions clarify that the Secretary's regulation of uses of lands within certain national parks for commercial fishing purposes is limited to federal lands (as opposed to State and private lands), that the bill does not authorize the issuance of commercial fishing licenses which are a function of state regulation, that the conservation of fish and wildlife within refuges shall be accomplished in accordance with the requirements of the National Wildlife Refuge Administration Act, that sport hunting, fishing and trapping within refuges shall be subject to the requirements of this Act and other applicable law, that the taking of fish and wildlife shall be permitted within new national units, and that, except as specifically may be provided in Title VIII, nothing in the Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands.

Subsistence Management and Use: These provisions conform references to "subsistence uses" in other parts of the bill with the language of the "subsistence uses" definition from Title VIII, recognize the importance of subsistence uses to the social existence of many non-Natives as well as to the cultural existence of Alaska Natives, require the Secretary to consult with the State during his establishment of a regional advisory council system (if the State does not establish its own such system), clarifies the role of the regional advisory councils in the decision-making process, clarifies that subsistence resource commissions are not required for national forest monuments and that within national parks and national park monuments the taking of fish and wildlife for subsistence uses shall be regulated by the State in accordance with the requirements of Title VIII and applicable state law.

Aquaculture: These provisions ensure that in national park wilderness areas, fisheries research and enhancement activities are to be undertaken in order to maintain fish populations or to

rehabilitate such populations to historic levels unless such activities are detrimental to wilderness area purposes.

The amendment just described was developed in consultation with the State of Alaska, the Real Alaska Coalition and various sportsmen's groups, the Alaska Federation of Natives, the International Association of Fish and Wildlife Agencies, and the National Rifle Association.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 1st Sess.

S. _____
H.R. 39 _____ (or Treaty _____) SHORT TITLE

(title) a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation System, and for other purposes.

() Referred to the Committee on _____
and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. Stevens

Title I:

Viz: Page 363, strike lines 1 and 2 and insert in lieu thereof:
1 "opportunity for rural residents engaged in a subsistence way of life to do so."

2 Title II:

3 Page 388, line 8, strike "or Federal"

4 Page 388, line 8, strike "Federal lands" and insert the following:
"public lands"

5 Page 388, line 15, after "." add the additional sentence: "This
6 section does not authorize the Secretary to issue Federal permits to engage in commercial fishing on waters located within a unit
7 of the National Park System."

8 Title III:

9 Page 389, line 7, following "practicable", strike "," and
insert the following:
10 "under authority of existing law, including but not limited to the National Wildlife Administration Act of 1966 (80 Stat. 927, 16 U.S.C. 668dd-jj),"

11 Page 389, line 8, strike "protections" and insert the following:
12 "(2) to fulfill the obligations of the United States with respect to fish, wildlife and their habitats
13 which are the subjects of international treaties;"

14 Page 406, line 9, strike "." and insert the following:
"including, but not limited to, the provisions of this Act."

15 Page 407, lines 24 and 25, strike "or Federal law"

16 Page 407, line 25, strike "Federal lands" and insert in lieu thereof
"public lands"

17 Page 408, line 5, strike "Federal lands" and insert
18 "Public lands"

19 Page 408, line 11, after "1979." insert the following:
"This section does not authorize the Secretary to
20 issue Federal permits to engage in commercial fishing within a unit of the National Wildlife Refuge System"

21

Title V:

Page 416, line 4, strike "protection" and in lieu thereof insert "conservation"

Page 416, line 14, between "other" and "uses", insert "similar"

Page 416, line 16, following "place.", insert the following additional sentence:

"Provided, that the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law."

Page 417, line 14, strike "protection" and in lieu thereof insert "conservation"

Page 417, line 19, after "1978.", insert the following additional sentence:

"Provided, that the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law."

Page 417, line 19, strike "Other multiple" and in lieu thereof insert "Multiple"

Page 417, line 20, strike "protection" and in lieu thereof insert "conservation"

Title VIII:

Page 469, line 22, strike "their" and insert in lieu thereof "Native"

Page 469, line 23, between "and" and "cul", strike "Native"

Page 469, line 23, after "existence", strike ";" and insert the following phrase:

", and to non-native physical, economic, traditional and social existence;"

Page 470, line 2, strike "persons" and insert "rural residents"

Page 470, line 25, strike "the inhabi-"

Page 471, line 1, strike "tants of Alaska" and insert "residents of rural Alaska"

Page 471, line 2, strike "people" and insert "rural residents"

Page 471, line 25, following "Alaska", strike ", and where" and in lieu thereof insert ". When"

Page 474, line 4, following "Secretary", insert the following phrase:

", in consultation with the State,"

Page 474, line 19, following "regional", insert "advisory"

Page 475, line 6, following "ticipation" insert the phrase:

"pursuant to the provisions of this title."

Page 475, line 24, between "local" and "committee" insert
"advisory"

Page 476, line 8, between "local" and "committee" insert
"advisory"

Page 476, line 15, between "regional" and "committee" insert
"advisory"

Page 477, line 8, between "local" and "committee" insert
"advisory"

Page 477, line 9, between "regional" and "council" insert
"advisory"

Page 479, line 7, strike "State in providing such preference,"
and insert in lieu thereof:

"implementation of this title, including the State's
provision of such preference,"

Page 479, line 14, between "local" and "committee" insert
"advisory"

Page 479, line 15, between "regional" and "council" insert
"advisory"

Page 481, line 20, between "local" and "committee" insert
"advisory"

Page 481, line 21, between "regional" and "council" insert
"advisory"

Page 482, line between "AND" and "MONUMENT" insert: "PARK"

Page 482, line 6, between "or" and "monument" insert "park"

Page 482, line 7, between "regional" and "council" insert
"advisory"

Page 482, line 9, between "or" and "monument" insert "park"

Page 482, line 11, between "regional" and "council" insert
"advisory" and between "local" and "committee" insert
"advisory"

Page 482, line 12-14 strike " is a resident of a village
within or adjacent to the park or monument or whose residents
engage," insert in lieu thereof "engages"

Page 482, line 14 between "or" and "monument" insert "park"

Page 482, line 18 between "or" and "monument" insert "park"

Page 482, line 24, between "local" and "committee" insert
"advisory" and between "regional" and "councils" insert
"advisory"

Page 483, line 4 between "local" and "committee" insert
"advisory" and following "regional" insert "advisory"

Page 483, line 6 between "or" and "monument" insert "park"

Page 483, line 15, between "or" and "monument" insert "park"

Page 483, line 16, between "or" and "monument" insert "park"

Page 487, line 21, between "local" and "committee" insert
"advisory" and between "regional" and "council" insert
"advisory"

Page 488, line 2, following "future," strike remainder of line 2 and insert:

"to ensure the opportunity for continued subsistence uses on the public lands; and"

Page 488, strike lines 3 and 4

Page 489, line 10, between "and" and "monuments", insert "park"

Page 490, line 23, following "or", strike "to assure the continued viability of"

Page 490, line 24, strike "to assure the continued viability of a particular fish or wildlife population." and insert in lieu thereof, "compliance with the provisions of applicable law."

Title XI:

Page 587, line 15, following "is", strike "permitted" and insert the following:

"not prohibited"

Page 633, line 22, between "law." and "Within", insert the following:

"Consistent with the provisions of this Act,"

Page 633, line 21, strike "appropriate reg"

Page 633, line 22, strike "ulation and"

Page 634, line 1, strike "and management"

Page 634, line 12, strike "specifically provided by this Act", and substitute the following:

"may be provided in Title VIII of this Act,"

Page 634, line 23, between "national" and "monuments", insert "park"

Page 635, line 22, strike "may" and insert the following:

"shall"

Page 635, line 25, delete "." and insert the following:

", unless the Secretary determines, after notice and hearing, that such activities and the support facilities necessary to accomplish such activities will constitute a significant detriment to the purposes of such an area."

Page 636, line 7, following "authorized", insert the following:

"by this section"

ARCTIC WILDLIFE RANGE/STATE LAND AND WHITE MOUNTAINS-
PREACHER CREEK/FEDERAL LAND EXCHANGE

Explanation

This amendment promotes consolidated ownership of Federal land in the expanded Arctic National Wildlife Range and of State land in the White Mountains/Preacher Creek area north of the Steese Highway near Fairbanks. If the exchange is approved by the State within one year of the bill's enactment (Alaska state law requires public hearings on this proposal prior to approval), the State would convey to the Federal government its selections of important wildlife habitat just south of the existing Arctic Wildlife Range. This land would become part of the range.

In exchange, the State of Alaska would receive title to Federal lands comprising the White Mountains National Recreation Area and the Preacher Creek unit of the Steese National Conservation Area, both of which are created by the bill, and the remaining applications under the homestead and other related public land laws would be approved subject to certain criteria. Beaver Creek in the White Mountains would be designated for study as a wild and scenic river and a 30-mile segment of the Upper Sheenjek River would be designated a wild river as a result of the trade.

For the Federal government, this exchange has several major advantages:

1. The exchange would add to the Wildlife Range valuable habitat especially important for migration and winter range of the Porcupine caribou herd. The area also contains habitat for significant moose and grizzly bear, wolves, wolverines, and other wildlife population.
2. The exchange would eliminate a significant non-Federal inholding within an area of otherwise contiguous Federal land management. By adding this land to the Arctic Wildlife Range, the U.S. Fish and Wildlife Service would extend its management over habitat which would otherwise be conveyed to the State by the Senate Committee bill as valid state land selections.
3. The wild and scenic river designation of the Upper Sheenjek River would be extended some 30 miles downstream, if the exchange is completed, because that part of the river would be added to the Range. Thus, the entire length of the river would be designated as either a wild river (segment within the Range) or for study as a wild river (segment within the Porcupine National Forest), creating the possibility of its becoming one of the longest wild rivers lying entirely within Federal areas.

4. The special values of Beaver Creek are appropriately recognized by its designation for study as a possible addition to the National Wild and Scenic Rivers System in accordance with Section 604 of the Senate Committee bill.

5. By conveying to the State only those lands within the White Mountains National Recreation Area and the Preacher Creek drainage of the Steese National Conservation Area, the exchange relies on the carefully considered boundary delineations of the Senate Committee bill to minimize any major effect on management of the proposed Yukon Flats National Wildlife Refuge to the north.

6. The Federal government would be spared the expense and administrative problem of adjudicating a small number of remaining applications under the Homestead Law and other similar statutes. The Senate Committee bill provides for the approval of Native allotment applications. The provisions of this amendment would provide equal treatment for those non-Natives who have similar applications under the homestead, trade and manufacturing site, headquarters and homesite, and small tract acts. These applications number only 670 and encompass only 38,000 acres (1/30,000 of the total acreage of the bill).

As with Native allotment applications, certain applications would be automatically adjudicated under existing law including those located within a national park, a state or Native selected area, or where there may be a conflict with private rights or specific public interest criteria. The BLM has estimated that the total field work and adjudication of pending Native allotment applications and these applications would require 1210 work months and 30 new positions to clear the backlog at a cost of 7.2 million dollars. The passage of this amendment along with the existing provisions of the bill would eliminate the bulk of that effort.

The State would also benefit from this exchange. By exchanging relatively remote and isolated lands for lands contiguous to other state holdings and which are connected by highway to the rest of the State, the State would be able to provide not only more appropriate and effective land management, but could offer a wider range of opportunities for Alaskan residents. The accessibility of the White Mountains-Preacher Creek area and its diverse recreational and mineral values combine to make this area a prime candidate for state ownership.

Purpose: To permit an exchange of State lands in and adjacent to
ANWR in consideration for certain federal land in the White Mountains/
Steese areas and the approval of certain pending applications under
the public land laws.

IN THE SENATE OF THE UNITED STATES-- Cong., ... Sess.

S.
H.R. 39 (or Treaty)
SHORT TITLE

(title) To designate certain lands in the State of Alaska as units of
the National Park, National Wildlife Refuge, National Wild and Scenic
Rivers, National Forest, and National Wilderness Preservation Systems,
and for other purposes.

() Referred to the Committee on
and ordered to be printed

(.) Ordered to lie on the table and to be printed

INTENDED to be proposed by MR. STEVENS

Viz: Title IV:

1 Page 409, line 24, strike "and".

2 Page 409, line 24, following "1978", strike "." and insert:

3 ", and subject to implementation of the land exchange
4 authorized by section 403 of this Title."

4 Page 411, line 16, after "403.", insert the following:

5 "(a)"

6 Page 411, after line 2, insert the following new subsection:

7 "(b) (1) If within one year after the date of
8 enactment of this Act the State tenders its conveyance of
9 all lands and the relinquishment of all land selections,
10 comprising approximately 1.29 million acres of land in
11 the Upper Coleen-Sheenjek River area as depicted on the
12 map entitled 'Coleen-Sheenjek Federal-State Exchange Lands'
13 and dated May 1980, the boundary of the Range shall,
14 upon completion of this exchange be amended thereby.
15 Such lands shall, upon such completion, become part of
16 the Arctic National Wildlife Range.

12 "(2) The Secretary shall accept the tender of those
13 conveyances and relinquishments referred to in paragraph
14 (1) above if they are of proper form, content and execu-
15 tion, and upon their acceptance shall convey to the
16 State under the Alaska Statehood Act (72 Stat. 338, as
17 amended) and section 906(g) of this Act, public lands
18 comprising approximately 1.54 million acres as depicted
19 on the map entitled 'White Mountains-Preacher Creek
20 Federal-State Exchange Lands' and dated May 1980. The
21 acreage of public lands conveyed to the State pursuant
22 to this exchange shall be subtracted from its land entitle-
ment specified in section 6(b) of the Alaska Statehood
Act in an amount equal to the acreage of lands conveyed
and selections relinquished by the State to the Secretary.

19 "(3) (a) (1) Approval of Applications. At such
20 time as the land exchange described in subsections (b)
(1) and (b) (2) is accomplished and subject to valid

21

22

existing rights, all applications located in Alaska made pursuant to the Act of June 1, 1938, 52 Stat. 609, as amended and supplemented, the Act of May 3, 1927, 44 Stat. 1364, as amended and supplemented, or the Act of May 14, 1898, 30 Stat. 413, as amended and supplemented, which were pending before the Department of the Interior on October 21, 1976, and which were located on lands available for such application at the time of entry and all applications made pursuant to the Act of March 3, 1891, 26 Stat. 1097, as amended and supplemented, which are pending and were located on land available for such application at the time of entry are hereby approved on the one hundred and eightieth day following the effective date of this act, except where provided otherwise by subsections (b) and (c).

"(2) All patents approved pursuant to this section shall be subject to the provisions of the Act pursuant to which the application was made and other applicable law.

-(3) Paragraph (1) of this subsection shall not apply to any application which has been knowingly and voluntarily relinquished by the applicant.

"(b) Applications Subject to Adjudication. - Notwithstanding the provisions of subsection (2), an application shall be adjudicated pursuant to the provisions of the Act under which it was made if the application describes -

(1) land which is within the boundary of a National Park System unit established, designated, or redesignated on or before the date of enactment of this Act;

(2) land selected by a Native corporation or Native group; or

(3) land which is patented, deeded, tentatively approved, or confirmed to the State, or selected by the State.

"(c) Protest Rights - Subsection (a) shall not apply and an application shall be adjudicated pursuant to the provisions of the Act under which it was made, if on or before the one hundred and eightieth day following the effective date of this Act:

(1) The State files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State, or a political subdivision of the State, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternative for excess exists; or

(2) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that such land is the situs of improvement, valid mineral interest, or other legal interest in such land claimed by the person or entity.

"(d) Reduction of Acreage - Where an application describes more than the maximum amount of acreage authorized pursuant to the Act under which the application was made, the Secretary shall reduce the acreage to the maximum amount in a manner which is consistent with prior use of the described land by the applicant and which is least detrimental to the applicant.

"(e) Valid Existing Rights - Prior to issuing a certificate or other evidence of approval of an application described in subsection (a), the Secretary shall identify and adjudicate any other record entry or application for title to land described in the application, and shall determine whether such other entry or application represents a valid existing right to which the application described in subsection (a) is subject.

"(f) Processing - Prior to execution of the land exchange described in subsections (b)(1) and (b)(2), the Secretary, pursuant to application, shall continue to process the applications referred to in subsection (6)(3)."

Page 447, strike lines 22 through 25.

Page 448, strike lines 1 through 3, and renumber remaining subparagraphs.

Page 450, on line 16, strike "." following "Alaska."

Page 450, following line 16, insert "'(86) Beaver Creek.'."

Page 451, line 15, strike "Beaver Creek".

Page 452, line 25, strike "Beaver Creek".

SENATOR MIKE GRAVEL

PROPOSED AMENDMENT TO ALASKA LANDS BILL ON MINING AND ACCESS

KANUTI REFUGE BOUNDARY ADJUSTMENT

The amendment alters the southwestern boundary of the proposed Kanuti Refuge to exclude about 48,000 acres of federal land (3% of the unit total). This is an upland area containing no waterfowl habitat characterizing most of the refuge area. The proposed exclusion also contains 50,000 acres of land selected by Doyon Native Regional Corporation, including Sithylemenkat Lake. This Lake is noted in the Senate Committee bill as a special value of the refuge, but Doyon's selection will effectively remove the Lake from the unit even if this boundary adjustment is not adopted.

The lands to be excluded contain significant deposits and occurrences of chromium and tin, which are strategic minerals important to the nation's economy and defense, since the U.S. is dependent upon foreign sources for 92% of the chromium and 81% of the tin consumed. The area's proximity to an existing transportation route (only 20 miles from the North Slope Haul Road) makes the development of these valuable resources very likely. This development outside the proposed unit would have no impact upon the key waterfowl habitat of the remaining refuge unit.

MINERAL LEASING PROVISIONS

The amendment substitutes the Act of August 7, 1947 (30 U.S.C. 315-359) for the Act of August 4, 1939 (43 U.S.C. 387) as the authorized means for disposal of nonleasable minerals within areas designated by the bill as Wild and Scenic Rivers (except "Wild" rivers) and National Recreation Areas, if such disposal is authorized by the Secretary. Research has revealed that the 1939 Act provides legally insufficient authority for such extraction under the Dept. of Interior's own interpretation of the statute. Thus, it is our understanding that a new Solicitor's opinion will rule that the 1939 Act, which authorizes the disposal of sand and gravel for the construction of reclamation projects, cannot be utilized in the future to dispose of hardrock minerals.

Accordingly, the proposed amendment would authorize the use of the Mineral Leasing Act for Acquired Lands for the disposal of hardrock minerals located within national recreation areas in Alaska. This Act gives the Secretary ample discretion to permit leasing and provide regulations for such use.

VALIDITY CONTESTS OF PROPERLY LOCATED CLAIMS

The amendment clarifies the legal situation for thousands of existing mining claims located within conservation unit boundaries. These claimants, most of them small operators, cannot afford an immediate validity contest against claims which were lawfully located, but have been difficult to develop due to the uncertainty of the ultimate land status, rapidly changing governmental regulation, and the short work seasons in Alaska. The amendment would not validate any claims which were invalid when first located, but would only place a 4-year moratorium on the ability of the government to contest the validity of the claim, thus allowing the claimant sufficient time to "prove up" his claim and demonstrate a valuable ore discovery once the land status is determined by the bill. Since the proposed language requires that claims, once validly located, must be maintained in compliance with applicable State and Federal law, the government would not be denied the opportunity to challenge claims on other grounds, such as the claimant's failure to perform annual assessment work.

15
This provision recognizes the more complex nature of mineral discovery today, when outcrop deposits are rare and locations are made on the basis of geologic inferences and time-consuming scientific analyses. At the same time, the Secretary's authority to adopt regulations to protect conservation units from degradation due to mining operations is preserved, and the validity of the claims can still be challenged (pursuant to the stringent criteria now being utilized) after the moratorium expires. Moreover, the massive nature of the proposed withdrawals and certain inadequacies in existing law which are exacerbated by the present situation in Alaska provide further justification for the language just discussed.

The language of this provision is adapted directly from language currently in the bill dealing with claims on national conservation areas and the White Mountain National Recreation Area.

MILLSITES

The location of millsites is a dilemma created by land withdrawals and uncertain land status surrounding validly-located mining claims. Without the ability to obtain a site to extract or process minerals from otherwise valid claims, a miner may well be prevented by economics from producing from his valid claim. This indirect means of thwarting operations on a valid claim is resolved by the amendment, which allows the claimant to lease adjacent land, if necessary for milling or mining operations, subject to regulations to protect the values of the conservation unit.

ACCESS TO CLAIMS AND PREFERENCE RIGHTS

Another provision of the amendment guarantees reasonable access to unperfected mining claims for the purpose of "proving up" a valid discovery during the moratorium period, and another section establishes a system of preference rights between mining claimants to re-record unperfected claims on lands closed to mining, if the Secretary, pursuant to authority granted him in the bill, later decides to open certain areas to mineral location.

Another component would clarify the status of access to valid mining claims and other property interests. In accordance with existing case law, this provision would make it clear that inholders possess legally recognizable access rights which, however, are subject to reasonable regulation by the Secretary.

The proposed minor change is accomplished by stating that inholders have access rights by virtue of their vested property interests, but that the exercise of such rights can be conditioned upon reasonable regulations which the Secretary deems necessary to ensure adequate environmental protection.

SPECIAL STATE ACCESS

The amendment would add a new section to Title XI which deals with transportation and utility systems across conservation system units. It supplements the process in the bill by including a separate procedure for the granting of access when the applicant is the State of Alaska.

Upon an application by the State, an economic and environmental analysis would be conducted jointly by the Department of Interior and Transportation (where appropriate) and other federal agencies with decision-making authorities. A draft must be completed within nine months and a final within one year. After completion of the analysis, a joint agency selection of a route and the issuance of the necessary permits would be made within 60 days. If no decision is made within 60 days, the application of the State would be considered approved.

This amendment, patterned closely after the special access language for the "boot" in the Gates of the Arctic National Recreation Area, would only apply to the State of Alaska, not private companies or local units of government. The other access provisions in the bill would still apply to these other entities.

Special access provisions are needed for the State because the circumstances relating to transportation and utility systems are unique in Alaska. The rudimentary existing transportation and utility systems, the large amount of federal ownership--particularly in restrictive conservation systems designated in the bill--and the very real potential for future energy and other resource developments on non-conservation system lands contribute to the great need for an access process that is truly workable.

Unlike other western states, which even up to 10 years ago merely filed a notice with the Bureau of Land Management to construct a road across public domain lands, when future needs arise for a road or pipeline in Alaska, the State will be presented with nearly insurmountable legal, regulatory, and judicial barriers to obtain access across federal lands to adjacent State and private lands. By the designation of over 100 million acres of conservation system units--some of which link up to form barriers several hundred miles in length--major areas of Alaska in State and private ownership could be rendered economically unusable by the denial of access.

The State of Alaska, unlike private companies or other entities, has sovereign powers afforded it under the Statehood Compact, has sophisticated planning processes, and has a demonstrated environmental concern and body of law (tied into existing Federal laws and regulations) warranting this specialized access procedure.

This provision is not a carte blanche for the State; ultimate authority for the choice of routes and terms and conditions of any right-of-way or other permit remain with the federal agencies.

MISCELLANEOUS

Included is a minor amendment adding Fairbanks municipal officials to those consulted prior to any agreements on uses of the North Slope Haul Road. Also included is a technical amendment correcting two section cross-references in the "boot" access language.

to provide interim protection for unpatented mining claims, to
Purpose: clarify the system for disposing of hardrock minerals in certain
areas, to make a minor boundary adjustment in the proposed Kluai
Wildlife Refuge, to provide a special procedure for state access
across conservation units, and to make several technical changes
relating to mining and access.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 2nd Sess.

S. _____

H.R. 39 (or Treaty _____) SHORT TITLE

(title) A bill to designate certain lands in the State of Alaska as units
of the National Park, National Wildlife Refuge, National Wild
and Scenic Rivers, National Forest, and National Wilderness Preserva
tion System, and for other purposes.

() Referred to the Committee on _____
and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. Gravel _____

Viz:

1 Title III:

2 Page 397, delete lines 20 and 21 and insert the following phrase
in lieu thereof:

3 "the approximately one million three hundred and seventy-
4 two thousand acres of public lands generally depicted on"

5 The referenced official map shall be conformed to the amendment
set forth herein and depicted on the attached map.

6 Title VI:

7 Page 454, lines 20-21, strike the words "section 10 of the
8 Act of August 4, 1939, as amended (43 U.S.C. 387), and insert
in lieu thereof the following:

9 "The Act of August 7, 1947 (30 U.S.C. 351-359) (which
shall apply to public lands, as defined by this Act),

10 Title XI:

11 Page 588, line 1, strike the words "be given by the Secretary"
12 and insert in lieu thereof the following:

13 "have"

14 Title XIII:

15 Page 633, line 1, following the word "by", strike remainder of
line 1 and insert in lieu thereof the following:

16 "the Act of August 7, 1947 (30 U.S.C. 351-359) (which
17 shall apply to public lands, as defined by this Act),
and he may"

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Page 633, strike line 2

Page 646, after line 20, add the following section:

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

SEC. 1325. (a) DEFINITION OF UNPERFECTED MINING CLAIM.--

The term "unperfected mining claim" as used in this section means a mining claim which is located on public lands within any unit established by this Act, or within any area added by this Act to an existing unit, with respect to which a valid mineral discovery within the meaning of the mining laws of the United States was not made as of November 16, 1978.

(b) **MORATORIUM ON CONTEST PROCEEDINGS.--**Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have located and maintained, and must continue to maintain, such claim in compliance with applicable Federal and State laws, and, where applicable, must obtain and comply with any mining access permit requirements imposed by the Department of the Interior. Prior to September 30, 1984, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: Provided, That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the units established or enlarged by this Act.

(c) **VALID MINERAL DISCOVERY.--**If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining or milling purposes: Provided, That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

(d) **VALIDITY DETERMINATION.--**If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1984, the validity of each claim shall be determined as of the date of the patent application or September 30, 1984, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1984, shall submit to the Secretary within one hundred and eighty days after such date all mineral data

compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) LEASES FOR MILLING PURPOSES.--If the surface estate of lands comprising claims for which patents have been issued or which have been determined to contain a valid mineral discovery pursuant to this section is inadequate for the purposes of extraction or milling of the mineral estate, the Secretary shall issue leases for other adjacent public lands at fair market value for mining or milling uses in connection with the extraction or milling of minerals from the claims: Provided, That all mining operations conducted upon such lease shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to subsection (b) of this section.

(f) ACCESS TO CLAIMS.--Pursuant to the provisions of this section and section 1110 of this Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1984.

(g) PREFERENCE RIGHTS.--The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on public lands located within the boundaries of any unit established by this Act, or within any area added by this Act to an existing unit, shall be entitled during a two-year period after the date that the Secretary exercises his authority to open an area containing such claim to mining, (1) to a preference right to re-record and develop his claim under applicable law or (2) to obtain a lease to remove nonleasable minerals from the claim under sections 606 or 1312.

(h) DEFINITIONS.--The term "unit" as used in this section is meant to describe any conservation system unit, national recreation area or national conservation area established or enlarged by this Act.

Title XI:

Page 586, add the following new section and renumber the following sections accordingly:

"SEC. 110. (a) Notwithstanding any other provision of this Act or other law, the Secretary and the head of any other Federal agency with decision-making responsibility shall issue such permits, certificates, or rights-of-way as may be necessary for a transportation or utility system across a conservation system unit, national conservation area, national recreation area, natural resource area, special management area, or the National Petroleum Reserve--Alaska for which an application has been submitted by the State in accordance with the provisions of this section.

(b) Upon the filing of an application by the State for a transportation or utility system across a conservation system unit or other unit referenced in subsection (a), the Secretary, the Secretary of Transportation (where he has programmatic responsibility), and the head of any other Federal agency with decision-making responsibility, shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the issuance of necessary rights-of-way and other authorizations for such system. This analysis shall be completed within one year, and the draft thereof within nine months of the receipt of the application, and shall be prepared in lieu of any environmental impact statement which would otherwise be required under section 102(2)(c) of the National Environmental Policy Act, and shall not be subject to judicial review. Such analysis shall consider the following:

(i) Alternative routes, including the consideration of economically feasible and prudent alternative routes across the affected unit or units or adjacent areas which would result in fewer or less severe adverse impacts upon the unit.

(ii) The environmental, social, and economic impacts of the system, including impacts upon wildlife, fish, and their habitat, rural and traditional lifestyles, including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts or to enhance positive impacts.

(c) Within 60 days of the completion of the environmental and economic analysis, the heads of any Federal agencies with decision-making responsibility shall jointly agree upon a route and issue the necessary permits, certificates, or rights-of-way across the conservation system unit or other units referenced in subsection (a). If a route is selected and permitted other than that described in the application by the State, such alternative route shall be in accord with the requirements of subsection (b)(i) of this section. If after 60 days the appropriate authorizations have been issued, the application by the State shall be considered approved."

On page 589, line 20, strike "." and insert the following:

", and with the chief elected official of the City of Fairbanks and of the Fairbanks North Star Borough."

On page 375, line 3, strike "1106" and insert the following:

"1107"

On page 373, line 14, strike "(a), (b), and (c)" and in lieu thereof insert the following:

"(b) and (c)"

**PROPOSED AMENDMENT TO THE ALASKA LANDS LEGISLATION TO
REDESIGNATE CERTAIN NATIONAL PARK AREAS AS NATIONAL
PARK PRESERVES**

The amendment redesignates approximately 1.97 million acres of the 22.25 million acres of National Park lands in the Senate Committee bill as National Park Preserve lands.

The amendment includes acreage redesignations in five units of the National Park System in the bill: Gates of the Arctic (.422 million acres); Lake Clark (.144 million acres); Wrangell-St. Elias (.623); Katmai (.059); and Denali (.722). In all but Denali, the remaining Park areas would be reduced by less than 10 percent. Overall, this amendment affects only 9 percent of the National Park acreage proposed in the Senate Committee bill and only 5 percent of all lands proposed for inclusion in the National Park System in Alaska.

Under the provisions of the bill, Preserve designation varies from Park designation only in that sport hunting and trapping uses are permitted in a Preserve. All other management prescriptions, including those for timber, hard-rock mining, oil and gas, and other developments would be identical to those of National Parks.

Sport hunting and trapping in addition to subsistence uses of wildlife have been occurring for decades in many of the areas proposed for National Park designation. The outstanding wildlife resources which characterize many of the proposed Park units have sustained this hunting and trapping use under state management with no apparent adverse impact to game populations.

Although there is a need in some cases to set aside Park areas where no sport hunting or trapping can occur for visitor use and appreciation of un hunted wildlife populations, the current bill sets aside over 22 million acres of Park lands where all sport hunting and trapping would be prohibited. This is an area the size of the State of Maine, or an area the size of 10 Yellowstone National Parks.

The amendment would seek more of a balance in the hunting/no-hunting distribution of Park lands. Although it is true that there would be other state and federal lands open to sport hunting under the bill, the 2 million acres proposed for redesignation as Preserves represent some of the most important areas in the State identified by the State of Alaska and national and state sportsmen organizations where sport hunting, guiding, and trapping activities are currently occurring. It is not simply a question of how many acres would remain open to hunting under the bill, but the what is the importance and quality of various areas in providing existing hunting and trapping opportunities.

At the same time, the 20+ million acres of Park lands which would remain in no-hunting status still contain areas where sport hunting, guiding, and trapping are occurring. Some of the State's most significant wildlife populations, including Dall sheep, grizzly bear and moose, would remain within the Park boundaries, closed to all sport hunting and trapping, for visitor and scientific appreciation.

Although literally hundreds of sport hunters, guides, and trappers would be unable to continue their current uses of the proposed Park units, the amendment would enable some of these users

to pursue their activities in several important areas. The amendment would restore several critical areas assigned by the State to guides allowing them to continue their livelihoods. Other economic interests such as air taxi operators, local suppliers, and outfitters would similarly benefit to the degree that these areas opened to sport hunting and trapping.

The configuration of proposed Preserve additions complements measures taken by the Committee in providing for continued sport hunting and trapping opportunities. In all cases, boundaries are proposed which follow ecosystem boundaries and adjoin other areas designated in the bill where hunting is permitted.

Properly regulated hunting, trapping, and wilderness guiding are generally acknowledged to be legitimate conservation activities which are conforming uses of National Park Preserves. These activities would continue to be carefully regulated by the State of Alaska to protect population levels and by the National Park Service in its protection of habitat.

GATES OF THE ARCTIC

The amendment would designate as Preserve 422,000 acres on the northeast side of the Alatna River adjacent to the existing Preserve in the bill in the John River drainage. The upper Alatna River drainage, including Survey Pass, and the area south and west of the River, including Takahula Lake and the Arrigetch Peaks area, would remain closed to hunting within the Park unit. The redesignations would reduce the Park area by 9 percent and would provide for continued hunting of Dall sheep and bear and for trapping in the area.

LAKE CLARK

The amendment would designate as Preserve 144,000 acres in the Turquoise Lake and upper Kijik River drainages. These areas are contiguous with the existing Preserve designation on the west side of the unit. The Twin Lakes drainage, recognized for its high potential as a visitor entrance and use area, would remain entirely within Park designation and be closed to hunting. The redesignation would reduce the Park acreage by 6 percent and provide continued sport hunting opportunities, primarily for local residents, for caribou, moose, sheep and bear. Trapping, particularly in the Kijik River drainage, is also significant.

WRANGELL-ST. ELIAS

The amendment would designate two areas as Preserves totaling 623,000 acres. One area removes the upper Lakima River drainage from Park and includes it with the remaining drainage in Preserve. The adjacent Kuskulana River drainage would remain entirely within Park status. The other area consists of the Chitina Glacier, Logan Glacier, and Goat Creek drainage. The additional Preserve areas would reduce the Park area by about 8 percent and are composed largely of high glacier and rock areas seldom visited by recreationists other than hunters.

The upper Chitina drainage to be redesignated is of international fame for Dall sheep hunting opportunities and includes key guiding areas assigned by the State.

KATMAI

The amendment redesignates 59,000 acres from Park to Preserve in two areas: the Nonvianuk Lake area on the north side of the existing Monument (52,000 acres); and the Kejulik River drainage on the south side (7,000 acres). Changing these areas reduces the Park area by 6 percent and does not affect any area within the original National Monument.

Both boundary changes are relatively minor and provide primarily for better eco-system boundaries for enhanced administration of hunting/no-hunting areas and the provision of hunting opportunities for both guided and local use.

DENALI

The amendment would redesignate 722,000 acres as Preserves. Approximately 630,000 acres would be added to the designated Preserve north and west of the existing Mt. McKinley Park, and about 95,000 acres would be added in the upper Yentna River drainage south of the Park (the lower Yentna drainage is already included in Preserve). These changes would reduce the Park designation added to the existing 2-million acre Park by about 28 percent.

The northern redesignation consists almost exclusively of broad lowlands of little relief. The area bears almost no resemblance to the mountainous terrain within the existing Park and is seldom used by recreationists other than hunters. The Kantishna Hills which have been identified as having high wildlife values closely associated with animal population in the existing Park are not included in the Preserve designation. This northern area is important primarily for local hunting of moose and for trapping by local residents.

Several guides are currently assigned to the Yentna drainage which is important for sheep, moose, and bear. The amendment would add the upper drainage to the Preserve to include the entire eco-system under a single management regime.

Purpose: To redesignate certain limited acreage within proposed national parks as park preserves in order to allow the continued opportunity for sport hunting and trapping.

IN THE SENATE OF THE UNITED STATES— 96th Cong., 2nd Sess.

S. _____

H.R. 39 _____

(or Treaty _____)

SHORT TITLE

(title) a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation System, and for other purposes.

() Referred to the Committee on _____
and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by _____

Viz: Title II:

1 Page 372, delete lines 5 through 8 and insert the following
2 phrase in lieu thereof:

3 "ing approximately four million three hundred and
4 seventy-nine thousand acres of Federal lands, Gates
of the Arctic National Preserve, containing approxi-
mately two million five hundred and thirty-nine
thousand acres of Federal"

5 The referenced official map shall be conformed to the amend-
6 ment set forth herein and depicted on the attached map.

7 Title II:

8 Page 376, delete lines 19 through 22 and insert the following
phrase in lieu thereof:

9 "proximately two million two hundred and ninety-
10 five thousand acres of Federal lands, and Lake
Clark National Preserve containing approximately
11 one million three hundred and fifty-eight thousand
acres of Federal lands,"

12 The referenced official map shall be conformed to the amend-
ment set forth herein and depicted on the attached map.

13 Title II:

14 Page 378, delete lines 19 through 22 and insert the
following phrase in lieu thereof:

15 "taining approximately seven million three hundred
16 and sixty-seven thousand acres of Federal lands,
and Wrangell-St. Elias Preserve, containing approxi-
17 mately three million seven hundred and sixteen
thousand acres"

18 The referenced official map shall be conformed to the
19 amendment set forth herein and depicted on the attached
map.

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Title II:

Page 381, delete lines 6 through 10 and insert the following phrase in lieu thereof:

"(2) Katmai National Monument by the addition of an area containing approximately eight hundred and seventy-seven thousand acres of Federal land. An additional four hundred and sixty-eight thousand acres of Federal land is hereby established as Katmai National Pre-

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

Title II:

Page 381, delete lines 21 through 25 and insert the following phrase in lieu thereof:

"(3)(a) Mount McKinley National Park by the addition of an area containing approximately one million eight hundred and sixty-five thousand acres of Federal land, and an additional one million eight hundred and ninety-one thousand acres of Federal land is hereby es-

The referenced official map shall be conformed to the amendment set forth herein and depicted on the attached map.

**SENATOR MIKE GRAVEL PROPOSED AMENDMENT TO D-2 BILL--NATIVE
LAND CONVEYANCE PROCEDURES**

-----Because of the extensive reorganization of the Department's Native land conveyance procedures and the acceleration of land conveyances recently, the so-called "expedited" conveyance procedures contained in the Committee bill are no longer necessary and would now potentially result in added confusion and delay in land processing. Thus, the amendment would delete those sections in the bill setting out these "expedited" procedures.

This provision has been agreed upon by the Department of the Interior, the State, and Native corporations.

-----The amendment includes a procedure for removing one of the biggest remaining impediments to the rapid conveyance of Native lands - the treatment of submerged lands. Without prejudicing the definition of "navigability" or making any determinations of "navigability", the amendment would allocate the risk of loss of land entitlement from future judicial determinations of navigability. This is accomplished by established procedures and rules for computing entitlements in terms of the size of streams and lakes encompassed within Native selection areas.

This process would diminish the number of administrative and judicial proceedings, thereby reducing conflict, costs, and manpower, and would increase the speed with which conveyances are made. It also contains language which enhances the opportunity to trade-out wetlands and other lands under water bodies which otherwise would go to Native corporations, so that such areas can be retained in public ownership. This provision has now been agreed to by the Department of the Interior, the State, and the Native corporations, and is contained in very similar form in all other current D-2 bills.

-----The amendment would convey the 115 acres constituting the Punuk Islands off the coast of St. Lawrence Island to the village corporations of Gambell and Savoonga. Pursuant to section 19(b) of ANCSA, the villages on St. Lawrence Island elected to receive conveyance of their "Reserve" in lieu of exercising village selection rights under other provisions of the Act. However, due to primitive mapping at the time the Reserve was established, the confusion arose as to whether the Punuk Islands located five miles off the coast of St. Lawrence were part of the Reserve. The amendment confirms that these Islands, used and considered part of their cultural heritage by the people of St. Lawrence, were a part of the Reserve and are conveyed to the corporations pursuant to ANCSA.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ANCHORAGE

Brief Analysis of the Tsongas Amendments

May 9, 1980

When the Alaska lands legislation was pending in the House of Representatives, many proponents of the Udall-Anderson bill argued that passage of an extremely expansive measure was necessary because of what the Senate might do. In fact, the Senate Energy Committee has reported a strong environmental measure, even stronger than the legislation reported in the 95th Congress. This bill, which was recommended by a margin of 17-1, is the product of numerous hearings and markup sessions held over a two year period.

In apparent disregard of the careful balance and analysis which are incorporated into the Committee bill, the Tsongas amendments would adopt most of the boundaries and management designations included in the Udall-Anderson measure. As a consequence, severe impacts on energy, minerals, and other national concerns would result. In addition, many State interests would be adversely affected.

A short summary of the amendments and the issues which are raised by them follows.

National Parks

This Tsongas amendment makes major changes in the careful balance between pure park and preserve/national recreation area status which the Senate Committee established. The argument for the most part is not whether the areas involved should be managed by the National Park Service; they would be in both Committee and Tsongas versions. The questions are whether sport hunting will be permitted subject to proper regulation, and in a limited instance, whether the Secretary is left the discretion to allow some resource activity. The Tsongas amendment would resolve these questions in the negative while the Energy Committee would permit established hunting activities to continue.

Wildlife Refuges

This amendment is a whole title substitute which would in effect replace the Senate Committee's work product with that of the House. The House boundaries in all areas dealt with would be

utilized. The net effect of the amendment is to eliminate the land selections granted to the State of Alaska by the Committee and to delete other management designations which the Committee felt were necessary to permit energy, mineral, and other resource development in areas not containing critical habitat and wildlife. While the Committee bill would strike a careful balance between otherwise competing concerns, this measure would add nearly 40 million acres to the national wildlife refuge system--more than doubling the system's current size and adding individual refuge units larger than some states.

Wilderness

Although the Senate Committee bill would more than triple the existing wilderness system, the Tsongas amendment would nearly double that acreage. Included as wilderness is the coastal plain of the Arctic National Wildlife Range--the most promising unexplored petroleum structure in North America--and individual wilderness units larger than some states. As a consequence, even environmentally sensitive resource assessments would be prohibited. Moreover, there would be severe impacts on the construction of visitor and other facilities necessary to enjoy conservation areas, on surface transportation of energy and other commodities, and on various activities which have no significant environmental effects. Thus, while both the Committee and Tsongas approaches would designate vast areas as wilderness, the Tsongas amendment is so expansive as to be of principal benefit to only those hardy souls who can hike these areas.

The amendment also provides for a formal wilderness study of all areas not designated wilderness, which under applicable case law prevents any activities that would alter wilderness characteristics until a final Congressional decision. In effect, all areas of the bill would be wilderness pending Congressional action. By contrast, the Committee bill would earmark vast areas for wilderness study, but would delete certain areas important for other uses.

Southeast Alaska

This amendment adopts the House boundaries as they relate to wilderness in Southeast Alaska. Rather than utilizing the combination of wilderness and special management areas contained in the Senate Committee bill, the Tsongas amendment takes an extremely broad view of wilderness. By contrast, the Committee version would designate 2/3 of the 6 million acres of wilderness in the Tsongas amendment (40 percent of the Tongass National Forest), with the remainder statutorily withdrawn from harvest unless Congress acts. A review of data would be conducted in ten years, but no harvesting could occur without an Act of Congress. If the timber in these