

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

697 SCOMM22: ALASKA LANDS FILE 1977-78

summary, the document search at the Bureau of Mines indicates that the office of the Special Assistant to the Secretary of Interior on Alaska had comprehensive, current, and accurate mineral assessment information in hand prior to the issuance of its September 1 briefing book. Despite said information, the Department of Interior's briefing book contained vastly understated mineral value estimates for the proposed withdrawal areas. Finally, when the specific understatements were pointed out to the Special Assistant for Alaska and a plea to correct the briefing book was entered, the Department of Interior chose not to privately or publicly correct its errors.

We are continuing to assess the documents we have received from the Bureau of Mines and will update the chart as new documents require.

Lastly, after this memo was typed, our Washington office received a phone call from an employee of the Bureau of Mines in Anchorage. The employee indicated that the Bureau of Mines has prepared a total assessment of the mineral potential on Alaska lands, and that that map is intentionally being withheld by the Interior Department in Washington and has not yet been published. Under the ambit of the authority granted to us by the Council for obtaining information mentioned in the request, we will pursue the refusal of information contained in that map.

1. ADMIRALTY ISLAND NATIONAL PRESERVE/REFUGE

NOT APPLICABLE

DEPARTMENT OF INTERIOR D-2 BRIEFING BOOK
SEPTEMBER 1, 1977

MEMO OF ASSISTANT INTERIOR SECRETARY FOR MINERALS AND ENERGY,
CORRECTING BRIEFING BOOK, SEPTEMBER 12, 1977

d) " Although there is some ongoing exploration, no major mineral values have been identified on the island even though it is free of the access problems common to most of Alaska."

" Admiralty Island: Statement that no major mineral values have been identified is incorrect. Mining, primarily for gold, has occurred mainly in the Funtar Bay area. A new significant discovery of nickel-copper-cobalt has been made in the same area. Another copper-zinc-silver discovery valued at \$120 million has been made this year in the Green Creek area and the prospects for finding additional deposits is excellent. At least two other silver-zinc-lead deposits are under active exploration, and two of several copper deposits are being prospected. Recent reconnaissances on Admiralty have identified two previous unknown areas of mineralizations."

2. ANIAKCHAK NATIONAL MONUMENT/PRESERVE

" 12. Aniakchak Caldera National Monument

No deposits of critical minerals have been located in this unit. The southeast half of the area is considered highly favorable for such deposits, with the northeast half ranging from favorable to less favorable. About four-fifths of the unit is within the Cook Inlet Mesozoic petroleum province. An important geothermal area occurs in the southwest part of the unit (estimated at about one-eighth of the unit). There are no existing roads showing on the Alaska Map E and no proposed transportation corridors that would traverse the unit.

The proposed monument would be made up of 17(d)(2) lands and dual withdrawal lands for (d)(2) and Native regional deficiencies and for (d)(2) and Native village deficiencies."

" There is some oil and gas potential in the coastal portion of the area, but the Natives will have the rights to extract any reserves here (see P.L. 94-204). The preserve unit includes those lands with hydrocarbon and hunting potential. There are no existing mineral claims within the park/preserve."

" Aniakchak: Although no deposits have been located in the proposed area, the southeastern slope of most of the Alaska Peninsula is highly favorable for the occurrence of minerals."

3. Bering Land Bridge National Preserve

14. Chukchi-Imuruk National Monument

The northern coastal area of the unit from north of Cape Prince of Wales to the west end of Goodhope Bay is considered unfavorable for most minerals. Most of the unit ranges from favorable to highly favorable. It contains parts of each of the Teller, Kougarok and Fairhaven gold placer districts. These districts are still productive. The Potato Mountain area has produced tin by dredging and other placer methods and has a high potential for significant additional placer and lode tin. Cape Mountain has significant tin lode and placer resources that are adjacent to the western tip of the unit and may be partly in it. The area has also produced from placer and lode mines. The Ear Mountain district has prospects carrying tin, tungsten and uranium. Copper deposits have been found on the Ward and the Wheeler prospects. The Independence Creek prospect is rated significant for gold, silver, lead and zinc. Indications of hydrocarbon content have been found in the northern tip of the unit, west of Goodhope Bay and south of Kotzebue Sound. This area, about 35 miles wide, is in the southern part of the Selawik Basin petroleum province. Four geothermal areas are listed as moderate to important. The largest of these is between Aurora and Imuruk Lake, and is over 20 miles in diameter.

b) Potential mineral areas were excluded in the southcentral and southeast portion of earlier proposals. Generally, there is rather low potential for mineral development, with 6 existing mineral claim groups, totalling some 2,700 acres within the proposal."

Bering Land Bridge: We agree that most of the best mineralized area for bergilium, tungsten, tin and fluorspar have been excluded. However, it is not possible to say that the remaining area with some claims has low potential. Part of the Kougarok district remains in the proposal area."

4. Cape Krusenstern National Monument

13. Cape Krusenstern

"This unit is rated highly favorable for the occurrence of mineral deposits. Several groups of claims were located on lead-zinc-barite prospects in the northeastern part of the unit in September, 1975, on lands west of the 17(d) (2) area withdrawn by Secretary of the Interior for the proposed Noatak National Arctic Range. This mineralized area extends easterly into the Noatak Preserve (unit 22) proposed in H.R. 39. It includes the Red Dog Creek deposits in unit 22. The northern tip of the area is in the southern part of the Arctic Foothills petroleum province. Selawik Basin province includes a strip along the southern coast of this unit.

A transportation corridor proposed by the Bureau of Land Management traverse this unit from north to south. Their proposed system map indicates it might accommodate a railroad, coal slurry line and petroleum pipelines to serve the large caking or coking coal deposits and possible oil and gas developments to the north."

b) Minerals - the area has low potential for minerals, there are no claims within the area. //

Cape Krusenstern: The briefing statement says that the area has low potential and that there are no claims. We would say that the geologic environments indicate favorable potential although no discoveries have been made."

N/A

c) Minerals - the only significant mineralization occurs in the Kantishna mining district, in the heart of the northern additions; while no significant mining occurs at this time, quantities of gold have been removed in historic times. There are 45 mineral claim groups, totaling some 11,000 acres within the area additions. //

1. Denali National Park: Although there is no significant mining at this time, an area of 400,000 acres in the northern addition that includes the Kantishna mining district is very favorable for the occurrence of metallic mineral deposits and is part of a larger mineral trend now being recognized along the north flank of the Alaska Range. Three areas in the southern addition are also highly mineralized.

2. A second Department of Interior comment on the Briefing Book description reads as follows:

"Item C of Decision rational is in extreme error. Most of park has high mineral potential." 1/ //

6. Gates of the Arctic National Park

"Only the northern 40 miles of the northernmost extension of the unit are rated unfavorable for critical locatable minerals, excepting uranium. The northern part has a potential for sedimentary uranium deposits. The balance of the unit is rated highly favorable to favorable. The high, granitic mountains and divide area in the central part is rated lower than the south and north mountain flanks. The outstandingly important Kobuk-Ambler copper-zinc-lead-silver province extends easterly across the southern part of the unit. Six significant deposit areas have been located and partially explored. The most important of these, to date, are the Picnic Creek and Giahugus zinc-copper-lead-silver deposits and the Ann-Abo Group lead-zinc-silver deposits. An historic placer district, with some lode claims, was active on Lucky Six Creek and several others in the southern part of the unit were prospected. The significant and currently active Koyukuk gold placer region extends about 60 miles into the southeast corner of the unit.

The northern extension of the unit lies within the Northern and the Southern Sections of the Arctic Foothills petroleum province. There are oil and gas seeps in the Northern Section. There are known coal deposits that have not been evaluated in this northern extension. Two geothermal areas have been identified; they are rated from moderate to important in potential. There is also an unevaluated potential for oil shale //

"d) Potential mineralized areas have been excluded from the southwest of the proposal where there are substantial deposits of copper and other metaliferous minerals in commercial quantities. There are some 821 mineral claims existing within the area, totaling some 16,420 acres. //

"Gates of the Arctic: This is coincident with one of the highest potential hardrock mineral areas in Alaska. Contrary to the statement in the briefing book, the southern one third of the proposed area has a high mineral potential. All of the potential mineralized areas have not been excluded. The proven discoveries to date were made in open ground and there is every indication that similar discoveries could be made in the closed area to the east. //

7. Glacier Bay National Park

"The Northwest unit contains the northern part of the Mount Fairweather ultramafic intrusive area. The southern part of the unit is favorable for nickel-copper deposits that might carry values in platinum metals. No known significant prospects or deposits have been located in the area. A narrow coastal strip is in the Gulf of Alaska Tertiary petroleum province. The same area has a uranium potential.

The east unit is highly favorable for mineral deposits. It contains several minor copper, lead, zinc and radioactive prospects. A uranium prospect between William Henry Bay and the Endicott River is getting new attention by exploration geologists. None of the known prospects are presently classed as significant."

b) Minerals - the area is under exploration but reportedly has low marketable values, due to extreme isolation in glaciated area."

"Glacier Bay: Area is not presently under exploration, but southeastern part of northern addition contains strong indications of nickel-copper-cobalt deposits similar to the important deposit in Glacier Bay NM. Isolation is not a factor. Industry was ready to develop deposit to the south which is in similar terrain prior to withdrawal of monument."

8. Kenai Fjords National Park

"The west half of the unit is favorable for mineral deposits. No significant deposits of critical minerals have been discovered. A minor amount of gold has been produced by milling vein deposits from small gold mines at Nuka Bay just inside the southwest corner of the unit."

"c) Mineral - low potential; market value of claims appraised at \$535,000."

"Kenai Fjords: The briefing statement refers to low mineral potential. We believe that the southwest corner is favorable where gold mining has occurred in the past. We don't consider area highly favorable."

the southern part favorable geologically. The eastern part of the historic Klery Creek (Kiana) gold placer district extends into the southwestern part of the unit. Gold has been produced in this district by dredging, drift-mining and other placer methods."

10. Lake Clark National Park

"Parts of this unit are highly favorable for mineral deposits. Current studies indicate this area is considerably larger than previously known. The southwestern fifth of the area is rated less favorable. A significant copper-molybdenum deposit has been extensively explored by diamond drilling and trenching on Kasna Creek, just south of Lake Kontrashibuna. This property has also had recent metallurgical testing and economic feasibility work performed by the owners. The Tak and other promising partially-explored deposits are nearby. Other known deposits have a potential for resources of copper, molybdenum, lead, zinc, iron, silver, gold and antimony. The best description of the mineral potential of this area is contained in a memorandum to Legislative Counsel from the Director, Bureau of Mines (June 8, 1977, through Assistant Secretary - Energy and Minerals). It concerns H.R. 1454 - To establish the Lake Clark National Park in the State of Alaska, and for other purposes. This memorandum and attached map should be made a part of the comments on unit 20 of H.R. 39.

The only mineral production from the unit has been relatively small amounts of placer gold. There is a current placer operation in the Bonanza Hills, intermittent operations in the Kijik-Portage Creek area just north of Lake Clark, and a reported new discovery with some current exploration near Whitefish Lake. There are reported deposits of high-grade limestone and cement raw materials.

The coastal strip along the east side of the unit is in the Cook Inlet Mesozoic petroleum province. It contains known oil seeps and other evidences of hydrocarbon content. This is also a favorable area for non-marine sedimentary uranium deposits, in addition to its potential for oil and natural gas.

Three geothermal areas have been rated as moderate to important. They are in the northeast corner, east central part, and southeastern corner areas of the unit. The Ingersoll (Lackbun Lake) hydropower site has a potential installed capacity of 104 megawatts. The Chakachamna, Nondalton and some other hydropower sites could be critically affected by management policies of lands and watersheds within this unit."

"b) Mineral potential is low. There are two mineral claim groups totalling 400 acres within the area, appraised at no market value."

"c) Minerals - There are 19 existing mineral claim groups totalling some 4,000 acres within the park/preserve. Some potential for copper exists in the southern fringe of this proposal; however, due to its location in high scenic recreational setting is included within the proposal. No marketable mineral deposits are known."

"Kobuk Valley: Statement is incorrect. Few deposits have been found to date because area has been closed to exploration during time discoveries were made in adjacent Kobuk-Ambler district. Area has same highly favorable geology for copper-lead-zinc-silver-gold discoveries as Kobuk-Ambler district. Two claim groups do not indicate lack of potential. "No market value" can presently apply to much of Alaska in sense of lack of access."

"Lake Clark: Statement understates importance of minerals. About one-third of the area running generally north-south through the center is highly mineralized with potentially significant occurrences of copper, molybdenum, lead, zinc, iron, and antimony. A significant copper deposit, Kasna Creek, and a molybdenum discovery occur a few miles inside the south boundary. Considerable drilling, including a program by our Department, has been done at the Kasna Creek deposit. Most mineral discoveries have been made at the north and south ends of the proposed park because of easier access but there are many anomalous areas indicating equally high potential through the proposed park itself. "No marketable minerals" has little meaning in the sense of long-range mineral adequacy. Considerable interest has been shown by industry within the last three years."

11. KODIAK NATIONAL PRESERVE

NOT APPLICABLE

- a) "The area has low potential for minerals. Only a few gold claims exist in the proposal. The Squirrel River drainage has several claim groups but was excluded from the proposal."

"Notes: The statement that the area has low potential is incorrect. Closed to mineral exploration during the recent active period in the Kobuk-Ambler area, no deposits have proven by drilling but the geology of the area is highly favorable to favorable for discovery. Particular areas of highest interest are believed to contain lead-zinc-buxite deposits, copper-zinc-barite deposits, as well as significant deposits of chromium, nickel, iron, copper and platinum group metals."

12. WRANGELL-ST. ELIAS NATIONAL PARK

NOT APPLICABLE

- d) "Minerals - within the preserve unit there are some concentrations of minerals that may be considered to have high potential, especially for copper. There are 71 mineral claim groups totalling some 45,000 acres within the park/preserve. Two special mineral management zones will be established to permit continued mineral exploration under permit."

"Wrangell-St. Elias: The briefing book understates the mineral potential of this area when it says that the preserve unit has some concentrations of minerals that may have high potential. Much of the proposed park and preserve is heavily mineralized. Existing mining claims indicate only part of the potential, probably a relatively small part. Areas much broader than the 71 claim groups are known to contain important deposits of copper and/or molybdenum, and chromium, zinc, silver and gold. This is one area in which Interior has done considerable work."

13. YUKON-CHARLEY NATIONAL PRESERVE/NATIONAL RIVERS

a) "Minerals: There is some potential for gold within the proposal, especially within the Yukon corridor; there are a number of small operators working claims at this time and 23 mineral claim groups exist, totalling some 4,500 acres. These have been appraised at a market value of \$250,000. Working of claims is considered a part of the historical scene in this area."

"Yukon-Charlie: Statement reports that there is some potential for gold. It would be better to replace some with favorable. There has been production over the years. Also, the placer deposits contain tin and tungsten."

14. ALASKA PENINSULA REFUGE/STUDY AREA

"The east half of each unit is highly favorable for mineral deposits. Eight significant deposits are known in the south unit containing copper, molybdenum, gold and silver in higher-grade vein and in low-grade porphyry-type deposits. The relatively small Chignik, Herendeen and Unga coalfields are in this unit. The unit has produced gold and silver from the Apollo mines on Unga Island and some coal from the island and the peninsula.

The units are in the favorable Cook Inlet Mesozoic petroleum province. Three important geothermal areas have been identified."

NO COMMENT ON MINERALS IN BRIEFING BOOK

"Alaska Peninsular Study Area: The briefing book contains no mineral information. The southeastern ridge of the peninsula has a high potential for precious metal deposits and the porphyry copper-molybdenum deposits. Eight significant deposits are known in the southern part of the area."

15. ARCTIC NATIONAL WILDLIFE REFUGE

" Arctic (Additions)

Three-quarters of this unit is highly favorable for occurrence of metallic minerals. Two important copper and copper molybdenum deposits are known and another significant copper prospect found. A small favorable petroleum structure occurs in the northwest part of the northwestern unit. Coal production potential is unknown.

An alternate surface utility corridor and other proposed surface transportation routes cross the area. It includes State and Native land selections.

Exclusive of a small area south of latitude 68° north and west of longitude 148° west would exclude presently known significant mineral deposits. This area is in the southwest corner of the unit. //

Part of the existing Range lies within a high potential petroleum province. Designation as a unit of the Wilderness System would require subsequent Congressional action to open the area to mineral exploitation. The potential for copper, lead, and zinc is only present in a small area of the proposal north of and between Chandalar Lake and Big Lake near the area known as Horace Mountain. These mineralized areas including placer deposits were excluded from the proposal by drawing the southwest corner essentially on hydrologic features, in such a way as to preserve within the Refuge the last undisturbed western migration corridor for the Porcupine caribou herd. //

" Arctic National Wildlife Refuge: There are other areas with potential for the occurrence of copper, lead, and zinc deposits other than the Chandalar district described in the briefing book. In fact the mineral potential map mutually agreed-to by the State, Commission, and Interior shows the Chandalar district as favorable for mineral discoveries whereas a large area to the north and a belt along the Canadian border is shown to be highly favorable. Two important copper and copper-molybdenum deposits are known and another significant copper prospect has been found. //

16. BECHAROF NATIONAL WILDLIFE REFUGE

NOT APPLICABLE

" A small portion of a petroleum province is included within the proposed refuge, although LUPC maps (profiles and proposals) noted only a broad potential mineral province without specific information on any known locations. Refuge designation would preclude mineral development to the extent that the 1872 mining law would not apply. Otherwise, exploration and development for oil and gas would be subject to Secretarial decision and classification and permit requirements. //

" Becharof Lake: The briefing book should read that the potential of this area is unknown because very little prospecting and exploration has been carried out. What is important is that the area is highly favorable for discoveries. //

17. KUSKOI NATIONAL WILDLIFE REFUGE

NOT APPLICABLE

"No significant mineral deposits are known and petroleum potential is considered low. Oil and gas exploration or extraction will be permitted only pursuant to Secretarial decision and classification and under strict permit requirements."

"Remarks: We agree that no significant mineral deposits are known but the east half of the unit is considered highly favorable for metallic and related nonmetallic mineral deposits."

18. SELAWIK NATIONAL WILDLIFE REFUGE

"The southern fifth of this area is rated highly favorable for minerals but no known significant deposits have been discovered. The western and central parts of the unit are in the Selawik Basin petroleum province and the north half is in the Kobuk Cretaceous province. The Kobuk Cretaceous area has potential for sedimentary uranium."

"Selawik lowlands have a low metallic mineral potential, although the possible occurrence of buried alkaline complexes with associated rare earth deposits cannot be dismissed. The area has a low to moderate petroleum potential. Hydroelectric power potential is known to exist in the area. Boundaries have been drawn to avoid mineral values in the south and southeast and geothermal values in the west, although This eliminated significant migratory bird nesting habitat and caribou in the east. Oil and gas exploration or development of nationally significant deposits could be permitted according to Secretarial decision and classification and under strict permit requirements."

"Selawik: The briefing statement notes that boundaries have been drawn to avoid mineral values in south and southwest. Although parts of the highly favorable belt along the south was excluded, much of it remains in the proposed refuge."

19. TOGIK NATIONAL WILDLIFE REFUGE

* Geologic conditions highly favorable for mineral deposits are found in the western quarter and favorable conditions in the central half of the Togiak unit. The Butte Creek area has produced a significant amount of placer gold and platinum. Platinum group metals and gold occur in mafic intrusive rock bodies south and southwest of Goodnews Bay. The supply port, store, fuel storage and part of the road to the Goodnews platinum district are in this unit. The only large identified reserve of placer platinum in the United States and the largest platinum producer is in this district. The deposits, worked since the late 1920's by dredging and various placer methods, lie within the Cape Newenham National Wildlife Refuge, and it is surrounded by the proposed Togiak unit.

Part of the unit has petroleum potential in the Kulukak Bay-Nushagak Bay and the Nushagak Basin petroleum provinces. //

* The proposed refuge is located adjacent to a major hard rock mineral province containing known and potential deposits of mercury, antimony, gold, platinum, palladium, zinc, copper, and silver. These mineral hot spots were accommodated by removing them from the proposed refuge area. //

* Togiak: As noted in the briefing book, the known "mineral hot spots" were excluded. However, the intervening ground in a narrow belt of highly favorable ground trending northwest mostly in the northwest corner was not excluded. //

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

REP. STEVE COWPER
CHAIRMAN
REP. ALVIN OSTERBACK
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SEN. CHANCY CROFT
SEN. MIKE COLLETTA
SEN. JOE ORSINI
WALTER PARKER
COMM. ROBERT LERESCHE
JAMES HOFFMAN
C. C. HAWLEY
DAVE CLINE



1018 WEST 6TH AVENUE, SUITE 2
ANCHORAGE, ALASKA 99501
(907) 277-2418/16
[POUCH V. JUNEAU, ALASKA 99811]

MEMO: TO ALL COUNCIL MEMBERS
FROM: SHARON LONG
RE: BUREAU OF MINES INFORMATION
DATE: JANUARY 3, 1978

Pursuant to the Council passed statement regarding "U.S.G.S. and Bureau of Mines Mineral Potential Maps and Data", Chairman Cowper filed a Freedom of Information Act request with the Bureau of Mines. The enclosed documents show discoveries made as a result of that request and a search made by the BIRCH, HORTON, BITTNER, and MONROE law firm in Washington D.C.

ENCLOSURES:

- (1) MEMORANDUM FROM RONALD G. BIRCH
- (2) CHART OUTLINING DISCREPENACIES IN VARIOUS DOCUMENTS

TO: D-2 STEERING COUNCIL *[Signature]*
FROM: RONALD G. BIRCH
RE: FREEDOM OF INFORMATION REQUEST
AT BUREAU OF MINES
DATE: DECEMBER 30, 1977

Pursuant to the Freedom of Information Act Request by Representative Steve Cowper, we were given access to all documents pertaining to D-2 in the Washington offices at the Bureau of Mines. The documents we searched tend to show that the Department of Interior specifically and intentionally withheld pertinent mineral information with respect to the specific D-2 withdrawal sites under consideration for the administration's final position on H.R. 39. Furthermore, these documents indicate that the Department of Interior failed to correct these understated mineral descriptions when the inaccuracies were raised, despite a September 12, 1977 recommendation to Special Assistant to the Secretary for D-2, Cynthia Wilson, from the Acting Assistant Secretary For Energy and Minerals, Charles Eddy, that "the briefing book needs substantial correction to accurately reflect the mineral values of the proposed areas."¹

1

In its suit against the Department of Interior to enforce the National Environmental Protection Act, the National Chamber of Commerce asked for discovery of the September 12 memorandum from Charles Eddy. The Department not only denied that it existed, but both Wilson and Tony Raspolic, Deputy Assistant Secretary of Energy and Minerals, testified that they had no knowledge of site-specific mineral data other than what was reflected in the briefing paper. The Eddy memo contradicts the above testimony because it was addressed to Wilson and copies were sent to all the assistant secretaries, the Secretary, and the Director of the Geological Survey.

in reaching a consensus D-2 position is necessary to put the documents discovered in the Bureau of Mines search into perspective. On July 29, 1977, Buff Bohlen, who was then the Special Assistant to the Secretary of Interior on Alaska asked all of the affected divisions and bureaus within the Interior to comment on the issues which he had delineated in a D-2 option paper. The Bureau of Mines, through the Assistant Secretary for Energy and Minerals, sent its complete report to Cynthia Wilson, who had replaced Buff Bohlen. This final report summarized all of the known mineral deposits and mineral potential areas for each site recommended for inclusion in the D-2 proposals. John Morgan, Acting Director of the Bureau of Mines, transmitted the report to the Assistant Secretary for Energy and Minerals on August 22, who in turn transmitted the report to Cynthia Wilson by August 25.

During the last week of August, Interior's Alaska Policy Group, which consisted of all the Assistant Secretaries, the Special Assistant to the Secretary on Alaska, the Solicitor, and the Secretary of Interior met to develop Interior's final position on H.R. 39. Between mid-August and the last part of August, the Alaska Policy Group held many briefings and meetings in order to discuss and disseminate all the necessary information.² It was during this period that the Bureau of Mines forwarded the final data to Wilson on the location of hardrock minerals, as well as some oil and gas deposits, on proposed D-2 lands.

2

At the evidentiary hearing of National Chamber of Commerce v. Department of Interior, Guy Martin, Assistant Secretary for Land and Water Resources, testified that during the latter part of August, sufficient information on the proposed D-2 areas was finally made available.

On September 1, 1977, the Department of Interior distributed its final position on D-2 lands to all of the concerned federal agencies and to the Office of Management and Budget for their comments, criticisms, and other input. The Interior position was transmitted in the form of a "D-2 Briefing Book". The Book stated the proposed withdrawals and a rationale for each withdrawal, which included an assessment of known minerals and mineral potential.

Each federal agency receiving the briefing book was given approximately two working days to submit written comments on the Interior proposal to the Office of Management and Budget. OMB's responsibility was to collect and compare all of the comments received on the Interior proposal and then to conduct an inter-agency meeting at which each commenting agency would advocate its position. The purpose of the inter-agency meeting was to reach a consensus. The Carter Administration D-2 position would be announced by Secretary of Interior Andrus at a September 15 hearing before the House Interior Committee's Subcommittee on Alaska Lands. The inter-agency meeting was held at the Office of Managements and Budget on September 9, 1977.

The significance of our document search of Bureau of Mines and the attached chart is as follows: The Bureau of Mines Memorandum transmitted to the Special Assistant to the Secretary on Alaska, Cynthia Wilson, between August 22 and August 25 details

the Department of Interior's most comprehensive and accurate data on mineral deposits and potentials in the D-2 withdrawal areas. These data are described in Column 2 of the attached chart. The briefing book distributed to all other federal agencies included mineral assessments for the same withdrawal areas that diverged drastically from the input received by Ms. Wilson's office from the Bureau of Mines. In each and every case, the disparity between the Bureau of Mines data and the data that Interior distributed to the other agencies for their review understated the mineral values in the withdrawal areas. Column 3 of the attached chart quotes the mineral assessments distributed to the other federal agencies in the Department of Interior's September 1 briefing book. The unmistakable conclusion is that the federal agencies receiving Interior's Briefing Book were misled as to the mineral values in the proposed withdrawal areas and they were misled into believing that each of the areas had substantially less mineral value than had been reported by the Bureau of Mines and the Assistant Secretary of Interior for Energy and Minerals.

The timing of the decision-making process also indicates that the Department of Interior had an opportunity to correct its inaccurate minerals assessments but chose to let the inaccuracies stand. On September 12, 1977, the Acting Assistant Secretary for Energy and Minerals transmitted a memorandum to Cynthia Wilson entitled "Discussion of Hard Rock Minerals in Secretary's Testimony and Briefing Book for D-2 Lands". In a cover letter attached to the memorandum, the Acting Assistant Secretary states that "The briefing book needs

substantial correction to accurately reflect the mineral values of the proposed areas." The memorandum contains a list of the specific changes that the Energy and Minerals Section of Interior felt were necessary. The cover letter went on to state that "In particular, referring primarily to existing claims and their appraised value is not necessarily a realistic indication of mineral potential." The site specific corrections necessary to make the briefing book conform to the Interior Department's most accurate and up-to-date mineral data for the withdrawal access are quoted in Column 4 of the attached chart. Once again, they indicate that the mineral descriptions in the briefing book substantially understate the mineral values in the proposed withdrawal areas.

Despite having the corrected mineral data three days before Secretary Andrus was to announce and document the administration's position before the House Interior Committee's Alaska Lands Subcommittee, the Interior Department chose to ignore the corrections to the recipient agencies, the House Interior Committee, or the public. The extensive descriptive material distributed by Secretary Andrus with the administration's September 15 announcement of its consensus position deletes all site-specific reference to mineral values in the withdrawal areas.

To my knowledge, no correction to the briefing book errors have ever been issued by the Interior Department. In

summary, the document search at the Bureau of Mines indicates that the office of the Special Assistant to the Secretary of Interior on Alaska had comprehensive, current, and accurate mineral assessment information in hand prior to the issuance of its September 1 briefing book. Despite said information, the Department of Interior's briefing book contained vastly understated mineral value estimates for the proposed withdrawal areas. Finally, when the specific understatements were pointed out to the Special Assistant for Alaska and a plea to correct the briefing book was entered, the Department of Interior chose not to privately or publicly correct its errors.

We are continuing to assess the documents we have received from the Bureau of Mines and will update the chart as new documents require.

Lastly, after this memo was typed, our Washington office received a phone call from an employee of the Bureau of Mines in Anchorage. The employee indicated that the Bureau of Mines has prepared a total assessment of the mineral potential on Alaska lands, and that that map is intentionally being withheld by the Interior Department in Washington and has not yet been published. Under the ambit of the authority granted to us by the Council for obtaining information mentioned in the request, we will pursue the refusal of information contained in that map.

LAW OFFICES

BIRCH, HORTON, BITTNER AND MONROE

783 W. FOURTH AVE., SUITE 208
ANCHORAGE, ALASKA 99501
(907) 279-9403
TELEX 25-356

4400 JENIFER ST., N. W. - SUITE 300
WASHINGTON, D. C. 20015
(202) 244-4250
TELEX 9-89-2501

28 OLD RICHARDSON HWY., SUITE 340
FAIRBANKS, ALASKA 99707
(907) 452-1000
130 SEWARD STREET, SUITE 314
JUNEAU, ALASKA 99901
(907) 585-2800

1200 AIRPORT HEIGHTS DRIVE
ANCHORAGE, ALASKA 99504
(907) 279-9501

MEMORANDUM

To:

Date: December 30, 1977

Memo to File
d-2 Legislation

I received a telephone call from Rita Bailey who is a physical science aide with the Bureau of Mines in Anchorage. She had read the Anchorage newspaper accounts of our investigation into minerals information available at the Bureau of Mines. She suggested that we request to see a publication entitled "Alaska's Energy and Mineral Potential - 1977". It is a Bureau of Mines publication authored by Bob Bottge who is with the Bureau of Mines in Juneau.

Rita explained that this publication comes out every two years and was completed by the Bureau of Mines a few months ago. It was forwarded to Washington where the Assistant Secretary of Interior for Energy and Minerals, Joan Davenport, decided that it should not be published under the name of the Bureau of Mines but should go to the U.S.G.S. for publication. The U.S.G.S. received the document and then refused to publish it and has returned it to Joan Davenport. Assistant Secretary Davenport has not determined when or in what form to publish the report. At present, the report is being held up pending some decision.

(202) 244-4250

4400 JENIFER ST. N. W.
WASHINGTON, D. C. 20015

JOSEPH M. CHOMSKI

BIRCH, HORTON, BITTNER & MONROE
ATTORNEYS AT LAW

733 WEST FOURTH AVE.
ANCHORAGE, ALASKA 99501

Memo to File
d-2 Legislation
December 30, 1977

I called Bottge but he will not be in until Tuesday. I hope to speak to him then. My guess is that this report and Interior's failure to publish it is what sparked the rumors we heard in November that Interior was covering up mineral information. Those rumors led to the Freedom of Information Act Request filed by Steve Cowper in our current investigation.

Suggestion: We follow this lead up but not make any public statement about it until our other investigation findings have been made public.

Joseph M. Chomski

MEMORANDUM

TO: D-- STEERING COUNCIL
FROM: RONALD G. BIRCH
RE: FREEDOM OF INFORMATION REQUEST
AT BUREAU OF MINES
DATE: DECEMBER 20, 1977

Pursuant to the Freedom of Information Act Request by Representative Steve Cowper, we were given access to all documents pertaining to D-2 in the Washington offices at the Bureau of Mines. The documents we searched tend to show that the Department of Interior specifically and intentionally withheld pertinent mineral information with respect to the specific D-2 withdrawal sites under consideration for the administration's final position on H.R. 39. Furthermore, these documents indicate that the Department of Interior failed to correct these understated mineral descriptions when the inaccuracies were raised, despite a September 12, 1977 recommendation to Special Assistant to the Secretary for D-2, Cynthia Wilson, from the Acting Assistant Secretary For Energy and Minerals, Charles Eddy, that "the briefing book needs substantial correction to accurately¹ reflect the mineral values of the proposed areas."

1

In its suit against the Department of Interior to enforce the National Environmental Protection Act, the National Chamber of Commerce asked for discovery of the September 12 memorandum from Charles Eddy. The Department not only denied that it existed, but both Wilson and Tony Raspolic, Deputy Assistant Secretary of Energy and Minerals, testified that they had no knowledge of site-specific mineral data other than what was reflected in the briefing paper. The Eddy memo contradicts the above testimony because it was addressed to Wilson and copies were sent to all the assistant secretaries, the Secretary, and the Director of the Geological Survey.

in reaching a consensus D-2 position is necessary to put the documents discovered in the Bureau of Mines search into perspective. On July 29, 1977, Buff Bohlen, who was then the Special Assistant to the Secretary of Interior on Alaska asked all of the affected divisions and bureaus within the Interior to comment on the issues which he had delineated in a D-2 option paper. The Bureau of Mines, through the Assistant Secretary for Energy and Minerals, sent its complete report to Cynthia Wilson, who had replaced Buff Bohlen. This final report summarized all of the known mineral deposits and mineral potential areas for each site recommended for inclusion in the D-2 proposals. John Morgan, Acting Director of the Bureau of Mines, transmitted the report to the Assistant Secretary for Energy and Minerals on August 22, who in turn transmitted the report to Cynthia Wilson by August 25.

During the last week of August, Interior's Alaska Policy Group, which consisted of all the Assistant Secretaries, the Special Assistant to the Secretary on Alaska, the Solicitor, and the Secretary of Interior met to develop Interior's final position on H.R. 39. Between mid-August and the last part of August, the Alaska Policy Group held many briefings and meetings in order to discuss and disseminate all the necessary information.² It was during this period that the Bureau of Mines forwarded the final data to Wilson on the location of hardrock minerals, as well as some oil and gas deposits, on proposed D-2 lands.

2

At the evidentiary hearing of National Chamber of Commerce v. Department of Interior, Guy Martin, Assistant Secretary for Land and Water Resources, testified that during the latter part of August, sufficient information on the proposed D-2 areas was finally made available.

On September 1, 1977, the Department of Interior distributed its final position on D-2 lands to all of the concerned federal agencies and to the Office of Management and Budget for their comments, criticisms, and other input. The Interior position was transmitted in the form of a "D-2 Briefing Book". The Book stated the proposed withdrawals and a rationale for each withdrawal, which included an assessment of known minerals and mineral potential.

Each federal agency receiving the briefing book was given approximately two working days to submit written comments on the Interior proposal to the Office of Management and Budget. OMB's responsibility was to collect and compare all of the comments received on the Interior proposal and then to conduct an inter-agency meeting at which each commenting agency would advocate its position. The purpose of the inter-agency meeting was to reach a consensus. The Carter Administration D-2 position would be announced by Secretary of Interior Andrus at a September 15 hearing before the House Interior Committee's Subcommittee on Alaska Lands. The inter-agency meeting was held at the Office of Managements and Budget on September 9, 1977.

The significance of our document search of Bureau of Mines and the attached chart is as follows: The Bureau of Mines Memorandum transmitted to the Special Assistant to the Secretary on Alaska, Cynthia Wilson, between August 22 and August 25 details

the Department of Interior's most comprehensive and accurate data on mineral deposits and potentials in the D-2 withdrawal areas. These data are described in Column 2 of the attached chart. The briefing book distributed to all other federal agencies included mineral assessments for the same withdrawal areas that diverged drastically from the input received by Ms. Wilson's office from the Bureau of Mines. In each and every case, the disparity between the Bureau of Mines data and the data that Interior distributed to the other agencies for their review understated the mineral values in the withdrawal areas. Column 3 of the attached chart quotes the mineral assessments distributed to the other federal agencies in the Department of Interior's September 1 briefing book. The unmistakeable conclusion is that the federal agencies receiving Interior's Briefing Book were misled as to the mineral values in the proposed withdrawal areas and they were misled into believing that each of the areas had substantially less mineral value than had been reported by the Bureau of Mines and the Assistant Secretary of Interior for Energy and Minerals.

The timing of the decision-making process also indicates that the Department of Interior had an opportunity to correct its inaccurate minerals assessments but chose to let the inaccuracies stand. On September 12, 1977, the Acting Assistant Secretary for Energy and Minerals transmitted a memorandum to Cynthia Wilson entitled "Discussion of Hard Rock Minerals in Secretary's Testimony and Briefing Book for D-2 Lands". In a cover letter attached to the memorandum, the Acting Assistant Secretary states that "The briefing book needs

substantial correction to accurately reflect the mineral values of the proposed areas." The memorandum contains a list of the specific changes that the Energy and Minerals Section of Interior felt were necessary. The cover letter went on to state that "In particular, referring primarily to existing claims and their appraised value is not necessarily a realistic indication of mineral potential." The site specific corrections necessary to make the briefing book conform to the Interior Department's most accurate and up-to-date mineral data for the withdrawal access are quoted in Column 4 of the attached chart. Once again, they indicate that the mineral descriptions in the briefing book substantially understate the mineral values in the proposed withdrawal areas.

Despite having the corrected mineral data three days before Secretary Andrus was to announce and document the administration's position before the House Interior Committee's Alaska Lands Subcommittee, the Interior Department chose to ignore the corrections to the recipient agencies, the House Interior Committee, or the public. The extensive descriptive material distributed by Secretary Andrus with the administration's September 15 announcement of its consensus position deletes all site-specific reference to mineral values in the withdrawal areas.

To my knowledge, no correction to the briefing book errors have ever been issued by the Interior Department. In

summary, the document search at the Bureau of Mines indicates that the office of the Special Assistant to the Secretary of Interior on Alaska had comprehensive, current, and accurate mineral assessment information in hand prior to the issuance of its September 1 briefing book. Despite said information, the Department of Interior's briefing book contained vastly understated mineral value estimates for the proposed withdrawal areas. Finally, when the specific understatements were pointed out to the Special Assistant for Alaska and a plea to correct the briefing book was entered, the Department of Interior chose not to privately or publicly correct its errors.

Oh. 22#

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*Amended
Complaint*

1 AVRUM M, GROSS
2 ATTORNEY GENERAL
3 Thomas A. Meacham
4 Assistant Attorney General
5 420 L Street, Suite 100
6 Anchorage, Alaska 99501

7 (907) 276-3550
8
9 Attorneys for Plaintiff
10 STATE OF ALASKA
11

12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF ALASKA
15 AT ANCHORAGE

16 STATE OF ALASKA,)
17)
18 Plaintiff,)
19)
20 vs.)
21)
22 JAMES EARL CARTER, President)
23 of the United States, in his)
24 official and individual)
25 capacities; CECIL D. ANDRUS,)
26 Secretary of the Interior,)
27 in his official and individual)
28 capacities; ROBERT HERBST,)
29 Assistant Secretary of the)
30 Interior for Fish and Wildlife)
31 and Parks, in his official)
32 and individual capacities;)
33 GUY R. MARTIN, Assistant)
34 Secretary of the Interior)
for Land and Water Resources,)
in his official and individual)
capacities; FRANK GREGG,)
Director, Bureau of Land)
Management, in his official)
and individual capacities;)
CURTIS V. McVEE, Alaska State)
Director, Bureau of Land)
Management, in his official)
and individual capacities;)
BOB BERGLAND, Secretary of)
Agriculture, in his official)
and individual capacities;)
JOHN A. SANDOR, Regional)
Forester, U.S. Forest)
Service, in his official)
and individual)
capacities; UNITED STATES)
DEPARTMENT OF THE INTERIOR;)
UNITED STATES DEPARTMENT OF)
AGRICULTURE:)

Defendants.)

No. A-78-291 Civil

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 276-3550

1 FIRST AMENDED
2 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

3 I.
4 NATURE OF ACTION

5 1. This is an action for declaratory and injunctive
6 relief pursuant to 24 United States Code Section 2201 and 28
7 United States Code Section 1331, against the named individual
8 defendants and the agents of the named agencies.

9 II.
10 JURISDICTION

11 2. This Court has jurisdiction to hear and decide
12 the issues raised in this action by virtue of 28 United States
13 Code Section 1331. The amount in controversy in this action
14 exceeds in value the amount of \$10,000, exclusive of interest
15 and costs.

16 III.
17 PARTIES

18 3. Plaintiff State of Alaska (hereinafter referred
19 to as "plaintiff" or "the State") is the sovereign State of
20 Alaska, one of the fifty United States, admitted to the Federal
21 Union on January 3, 1959 pursuant to P.L. 85-508, 72 Stat. 339
22 (1958), and is legal representative of the people of the State
23 of Alaska in this action.

24 4. Defendant James Earl Carter (hereinafter referred
25 to as "the President") is the President and Chief Executive
26 of the United States of America.

27 5. Defendant Cecil D. Andrus (hereinafter referred
28 to as "the Secretary") is Secretary of the Interior and a
29 member of the Cabinet of the President, and is the chief
30 executive officer of the United States Department of the
31 Interior.

32 6. Defendant United States Department of the Interior
33 (hereinafter referred to as "the Department") are those persons
34 in said Department who act or withhold action at the general
direction of the Secretary, including the named defendants
Robert Herbst, the Assistant Secretary of the Interior for Fish

1 and Wildlife and Parks, Guy R. Martin, Assistant Secretary
2 of the Interior for Land and Water Resources, Frank Gregg,
3 Director of the Bureau of Land Management; and Curtis V.
4 McVee, Alaska State Director, Bureau of Land Management;
5 designation of said agency as defendant shall include the named
6 officers and officers and agents of all component ranches,
7 assistant secretariats, bureaus, and services.

8 7. Defendant Bob Bergland (hereinafter referred to
9 as "the Secretary of Agriculture") is Secretary of Agriculture
10 and a member of the Cabinet of the President, and is the Chief
11 Executive Officer of the United States Department of Agriculture.

12 8. Defendant United States Department of Agriculture
13 (hereinafter referred to as "the Department of Agriculture") are
14 those persons in said Department who act or withhold action at
15 the general direction of the Secretary of Agriculture, including
16 the named defendant John A. Sandor, Regional Forester, U.S.
17 Forest Service; designation of said agency as defendant
18 shall include the officers and agents of the U.S. Forest Service,
19 a component of the Department of Agriculture.

20 IV.
21 STATEMENT OF FACTS

22 9. On July 7, 1958 P.L. 85-508 (hereinafter
23 referred to as the "Alaska Statehood Act") was enacted, which
24 statute offered admission into the Federal Union to the Terri-
25 tory of Alaska upon certain conditions. Said conditions were
26 accepted by vote of the people of the Territory on August 26,
27 1958, thus forming a statehood compact between the United States
28 and the people of the Territory and State. The State of Alaska
29 was thereafter admitted to the Federal Union by Presidential
30 Proclamation on January 3, 1959.

31 10. Sections 6(a) and 6(b) of the Alaska Statehood
32 Act made certain quantity grants of vacant, unappropriated
33 and unreserved federal lands to the State of Alaska totalling
34 approximately 102,950,000 acres, to be selected by the State

1 before January 4, 1984. Section 6(a) of the Alaska Statehood
2 Act also granted to the State 400,000 acres of vacant and
3 unappropriated Federal lands from the National Forest System
4 in Alaska, to be selected by the State before January 4, 1984.
5 Upon acceptance of the terms of statehood by the people of
6 Alaska and admission of Alaska to the Union, a legal compact
7 was formed between the United States on the one hand, and the
8 State and people of Alaska on the other, which compact requires
9 the United States, through the Secretary and the Department,
10 and through the Secretary of Agriculture and the Department of
11 Agriculture, to convey to plaintiff all lands duly selected
12 by plaintiff in fulfillment of said land grants, pursuant
13 to the procedures set forth in Section 6 of the Alaska
14 Statehood Act.

15 11. Plaintiff has selected certain lands in partial
16 fulfillment of the federal land grants made to it in the Alaska
17 Statehood Act. Portions of such selected lands have been
18 patented to plaintiff by the Department, and other portions
19 have been tentatively approved for patent to plaintiff by the
20 Secretary pursuant to the procedures set forth in Section 6
21 of the Alaska Statehood Act. Portions of lands selected by
22 the State from the National Forest System have been approved
23 for conveyance by the Secretary of Agriculture. Lands tenta-
24 tively approved and lands patented to plaintiff comprise, in
25 acreage, less than one-half of the total quantity of Federal
26 lands granted plaintiff by the Alaska Statehood Act.

27 12. Plaintiff's ability to obtain tentative approval
28 and patent to lands previously selected, and plaintiff's ability
29 to file valid land selections upon other federal lands, so as
30 to fulfill the land grants made to it by the Alaska Statehood
31 Act have been and will be frustrated, delayed and prevented by
32 actions of defendants and their predecessors in office, as is
33 alleged more fully subsequently herein.

34 /

1 13. On December 18, 1971 the Alaska Native Claims
2 Settlement Act, 43 U.S.C. § 1601, 855 Stat. 688 (hereinafter
3 referred to as "ANCSA") was enacted. Said Act granted Alaskan
4 Natives certain land and monetary benefits in settlement and
5 extinguishment of all aboriginal land titles, if any, and claims
6 thereto, within the State of Alaska. The land grants made to
7 Alaskan Natives included the authority to select federal lands
8 and lands previously tentatively approved to or selected by
9 plaintiff in certain instances, with the concurrence of the
10 plaintiff, so as to fulfill a total land grant to Alaskan
11 Natives of approximately 44 million acres of land. Section
12 17(d)(1) of said Act authorized predecessors of the Secretary
13 to make certain withdrawals of public lands to insure protection
14 of the public interest, and Section 17(d)(2) of said Act
15 required predecessors of the Secretary to withdraw up to,
16 but not to exceed, 80 million acres of public lands which
17 the Secretary deemed suitable for designation by Congress as
18 new or augmented national parks, national wildlife refuges,
19 national forests, and national wild and scenic rivers.

20 14. The Secretary and his predecessors subsequently
21 made certain withdrawals comprising 80 million acres pursuant
22 to Section 17(d)(2) of ANCSA, which lands were withdrawn from
23 selection by plaintiff pursuant to the requirements of said
24 section. Such withdrawals, which were finally recommended to
25 Congress by the Secretary's predecessor on December 17, 1973,
26 were accompanied in 1973 and 1974 by an Environmental Impact
27 Statement (hereinafter referred to as the "EIS") compiled at the
28 direction of the National Environmental Policy Act (hereinafter
29 referred to as "NEPA"), 42 U.S.C. § 4331. Such withdrawals will
30 expire on December 17, 1978 absent a Congressional delay of
31 expiration of the Section 17(d)(2) withdrawal, which expiration
32 is presently required by Section 17(d)(2)(D) of ANCSA.

33 15. The Secretary and his predecessors also
34 made certain withdrawals, including the withdrawals
as stated in paragraph 14 above, under the discretionary

1 as stated in paragraph 14 above, under the discretionary
2 authority granted by Section 17(d)(1) of ANCSA in such a
3 manner as to purport to classify substantially all of the
4 federal public lands within the State of Alaska as withdrawn
5 from selection by plaintiff under the Alaska Statehood Act.
6 Said withdrawals continue to the date hereof, and plaintiff,
7 upon information and belief, asserts that the legal significance
8 accorded such withdrawals by defendants will continue after
9 December 18, 1978 so as to purport to prevent selection by
10 plaintiff unless adequate relief, as prayed in this complaint,
11 is granted plaintiff.

12 16. In April of 1972 plaintiff filed suit against
13 the Secretary's predecessor in an action styled Alaska v.
14 Morton, et al. (Civil Action No. A-48-72) in the U.S. District
15 Court for the District of Alaska, alleging that defendant and
16 its agents had violated, and would continue to violate,
17 provisions of the Alaska Statehood Act and ANCSA in pursuing
18 actions purportedly taken under authority of ANCSA. Said
19 lawsuit was settled, and a stipulation for dismissal was entered,
20 on the basis of the Memorandum of Agreement entered into
21 between the Secretary's predecessor and the Governor of plaintiff
22 State on September 1, 1972. A true copy of said Memorandum of
23 Understanding is attached to this Complaint as plaintiff's
24 Exhibit "1".

25 17. On October 14, 1978 the Congress of the United
26 States adjourned without taking action to resolve the status
27 of lands withdrawn by Section 17(d)(2) of ANCSA, and without
28 extending the period during which withdrawals of land under
29 Section 17(d)(2) would remain effective.

30 18. Several months prior to October 14, 1978 the
31 Secretary and officials of the Department began private
32 discussions and made public statements regarding those actions
33 defendants would take to continue, by executive authority, the
34 withdrawn status of lands now withdrawn under Section 17(d)(2)

1 if the Congress failed to act prior to its adjournment. Said
2 discussions and statements have variously involved application
3 of Secretarial withdrawal authority claimed under Section 204
4 of the Federal Land Policy and Management Act, (hereinafter
5 referred to as "FLPMA"), 43 U.S.C. § 1714, Presidential with-
6 drawal authority claimed under the Antiquities Act (hereinafter
7 referred to as the "Antiquities Act"), 16 U.S.C. § 43, withdrawal
8 under Section 22(e) of ANCSA, 43 U.S.C. § 1621(e), and continued
9 reliance upon the purported effect of withdrawals made pursuant
10 to Section 17(d)(1) of ANCSA, 43 U.S.C. § 1615(d)(1), and the
11 wilderness review requirements of Section 603 of FLPMA, 43 U.S.C.
12 § 1792.

13 19. On or about October 25, 1978 the office of
14 the Secretary issued a letter, together with a draft "environ-
15 mental supplement", purporting to set forth alternative admini-
16 strative actions for treating the question of public lands in
17 Alaska upon expiration of the Section 17(d)(2) withdrawals
18 under ANCSA. Said letter and "environmental supplement" were
19 issued in an effort to comply with the requirements of NEPA,
20 though defendants claimed that some administrative actions
21 being considered were not subject to the provisions of NEPA.

22 20. Public analysis and comment regarding the
23 "environmental supplement" described in paragraph 19 above
24 are required by defendants on or before November 20, 1978,
25 which date is less than 30 days subsequent to issuance of
26 the "environmental supplement", and is less than 25 days
27 from the date upon which copies of said "supplement", together
28 with maps, were made available for general review and comment
29 by the affected public in Alaska.

30 21. The "environmental supplement" and letter issued
31 by defendants, as aforesaid, state that action will be taken by
32 defendants, and each of them, within their respective areas of
33 authority prior to December 18, 1978, implementing, singly or in
34 combination, the various administrative actions and interpreta-

1 tions of statutes set forth in said letter and "environmental
2 supplement", and which have been set forth previously herein.

3 22. Plaintiff, for itself and for the people of the
4 State of Alaska, whom it represents in this action in parens
5 patriae, have been and will be irreparably damaged, and the
6 compact and statutory obligations existing between the United
7 States and the State of Alaska and its people have been and
8 will be breached to the harm of plaintiff, if defendants
9 undertake any or all of those administrative actions, or
10 implement any or all of those administrative interpretations of
11 statute, which have been set forth previously in this Complaint,
12 and which will be more specifically enumerated in each Cause
13 of Action set forth subsequently herein.

14 V.
15 FIRST CAUSE OF ACTION

16 22. Plaintiff realleges and incorporates herein by
17 reference each and every legal assertion and statement of fact
18 set forth in paragraphs 1 through 21 of this Complaint.

19 23. The Secretary and the Department have denied,
20 and continue to deny, plaintiff and the interested public an
21 opportunity to review, analyze and comment upon, in a reasonable
22 and meaningful fashion, defendants' "environmental supplement"
23 in a period of time adequate to offer substantive public parti-
24 cipation prior to the taking of action by said defendants.

25 24. Such denial of opportunity by the defendants
26 violates the substantive and procedural requirements of NEPA,
27 and further violates the regulations and policies issued there-
28 under by the President's Council on Environmental Quality, the
29 Secretary, and the Department.

30 25. Such denial of opportunity by said defendants
31 as aforesaid denies the people of Alaska, and each of them, due
32 process and equal protection under the Constitution and laws
33 of the United States.

34 26. Wherefore, plaintiff prays as to its First Cause
of Action that this Court grant it the following relief:

1 a. That this Court find that the requirements
2 for public review, analysis and comment as required by NEPA
3 and the regulations and policies promulgated thereunder have
4 been, and will continue to be, violated by defendants, and that
5 plaintiff and its citizens have been and will be harmed thereby;

6 b. That this Court enter an order enjoining the
7 President from finally deciding upon any course of action,
8 making any proclamation or issuing any order affecting Alaska
9 pursuant to any otherwise lawful authority vested in him by
10 the Antiquities Act, until compliance with the requirements
11 of NEPA and regulations and policies promulgated thereunder
12 has occurred to the satisfaction of the Court;

13 c. That this Court enter an order enjoining
14 the Secretary the named Interior Department defendants and the
15 Department, or any of them, from finally deciding upon any
16 course of action, issuing any order, or making any withdrawal
17 of lands affecting Alaska under ANCSA, FLPMA or the Antiquities
18 Act, or any of them, until compliance with the requirements
19 of NEPA and regulations and policies promulgated thereunder
20 has occurred to the satisfaction of the Court;

21 d. That this Court enter such additional
22 orders as it may deem necessary to afford plaintiff complete
23 relief from defendants' actions as alleged in its First Cause
24 of Action.

25 VI.
26 SECOND CAUSE OF ACTION

27 27. Plaintiff realleges and incorporates herein by
28 reference each and every legal assertion and statement of fact
29 set forth in paragraphs 1 through 26 of this Complaint.

30 28. The original EIS issued by the Secretary's
31 predecessors, as stated in paragraph 14 of this Complaint, and
32 the letter and "environmental supplement" issued by the Secre-
33 tary and the Department as stated in paragraph 19 of this
34 Complaint, fail to comply, together or singly, with the

1 substantive requirements imposed by NEPA and regulations and
2 policies promulgated thereunder in the following particulars,
3 among others:

4 a. The EIS was written as an aid to Congressional
5 action, and is insufficient to support unilateral executive
6 action by defendants, or any of them.

7 b. The EIS is a substantially out-dated document,
8 having been compiled more than five years prior to the date
9 upon which actions are threatened to be taken by defendants.

10 c. The EIS fails to discuss, analyze, or
11 present alternatives for actions as to some lands which were
12 not finally withdrawn by the Secretary's predecessors in 1973,
13 but which are included within the scope of the "environmental
14 supplement" and the actions threatened by defendants on or
15 before December 17, 1978. The "environmental supplement",
16 standing alone, is legally and factually inadequate to meet
17 the requirements of NEPA and applicable regulations as to
18 such lands.

19 d. Neither the EIS nor the "environmental
20 supplement" discuss, analyze or present alternatives for actions
21 which, upon information and belief, the Secretary or the
22 Secretary of Agriculture, or their agents, intend to take
23 with regard to lands within the National Forest System in
24 Alaska, as will be more fully set forth subsequently in this
25 Complaint.

26 e. The EIS fails to discuss, analyze or present
27 those alternative executive actions now proposed to be taken by
28 defendants, and by each of them.

29 f. The "environmental supplement" fails to
30 present for public review, analysis and comment any preferred
31 alternative course of action or any definite combination of
32 actions which defendants, and each of them, are contemplating
33 to take; defendants have thus failed to offer a focus for
34 meaningful analysis and comment by plaintiff and by the affected
public.

1 g. The "environmental supplement", together
2 with the EIS, fail to fulfill the requirements of NEPA in the
3 fact that defendants, and each of them, are determining, and
4 have already determined, which course of action or combination
5 of actions will be taken, independent of the "environmental
6 assessment" and provision for the abbreviated comment period
7 for plaintiff and the affected public.

8 h. The EIS and the "environmental assessment",
9 taken together, are insufficient to fulfill the factual and
10 legal requirements of NEPA, as a matter of law.

11 29. Wherefore, plaintiff prays as to its Second
12 Cause of Action that this Court grant it the following relief:

13 a. That this Court find that defendants' EIS
14 and "environmental supplement" violate the substantive
15 requirements of NEPA and applicable guidelines and regulations;

16 b. That this Court find that defendants'
17 EIS and "environmental supplement" are inadequate to support
18 the proposed administrative actions, or any of them, as a matter
19 of law;

20 c. That this Court enter an order enjoining
21 defendants, and each of them, from finally determining any
22 course of action, issuing any order or proclamation, or
23 making any withdrawal of lands affecting Alaska until defendants
24 have cured each of those defects found to exist in the EIS
25 and the "environmental supplement", and have offered such
26 revised and supplemented documents for adequate public
27 review, analysis and comment.

28 d. That this Court enter such additional
29 orders as it may deem necessary to afford plaintiff complete
30 relief as prayed for in its Second Cause of Action.

31 VII.
32 THIRD CAUSE OF ACTION

33 30. Plaintiff realleges and incorporates herein by
34 reference each and every legal assertion and statement of

1 fact set forth in paragraphs 1 through 29 of this Complaint.

2 31. Any action proposed to be taken by the President
3 pursuant to the Antiquities Act, as set forth in defendants'

4 "environmental supplement" and as alleged in this Complaint,

5 a. is in excess of lawful authority delegated
6 the President by Congress;

7 b. will usurp a power and function vested in
8 Congress by ANCSA and other law;

9 c. will not, and is not intended to, provide
10 only interim protection to the affected lands;

11 d. will constitute an arbitrary and capricious
12 exercise of authority by the President.

13 32. Any action proposed to be taken by the President
14 pursuant to the Antiquities Act, as alleged herein, if otherwise
15 lawful, constitutes a "major Federal action" within the meaning
16 of NEPA.

17 33. Wherefore, plaintiff prays as to its Third Cause
18 of Action that this Court grant it the following relief:

19 a. That this Court enter an order declaring
20 that any action proposed to be taken by the President pursuant
21 to the Antiquities Act will be, and is, unlawful under that Act
22 and as applied to the public lands in Alaska at issue in this
23 lawsuit.

24 b. That this Court enter an order declaring
25 that any action proposed to be taken by the President pursuant
26 to the Antiquities Act, if otherwise lawful, shall constitute
27 a "major Federal action" within the meaning of NEPA.

28 c. That this Court enter such additional
29 orders as it may deem necessary to afford plaintiff complete
30 relief as prayed for in its Third Cause of Action.

31 VIII.

32 FOURTH CAUSE OF ACTION

33 34. Plaintiff realleges and incorporates herein by
34 reference each and every legal assertion and statement of fact

1 set forth in paragraphs 1 through 33 of this Complaint.

2 35. The Secretary and the Department are authorized
3 by Section 22(e) of ANCSA (43 U.S.C. § 1621(e)) to replace, with
4 other public lands, those lands within existing wildlife refuges
5 in Alaska which are conveyed to Native village corporations.
6 Upon information and belief, plaintiff alleges that defendants
7 intend to replace those wildlife refuge lands lost by conveyance
8 to Native village corporation,

9 a. from public lands elsewhere in Alaska which
10 are not adjacent to or in close proximity with the affected
11 wildlife refuge;

12 b. on the basis of the acreage of wildlife
13 refuge lands selected by Native village corporations, regardless
14 of the amount of lawful land entitlement of each corporation
15 to such lands or the lawfulness of such selections;

16 c. on the basis of the entire amount of acreage
17 of wildlife refuge lands selected by Native village corporations,
18 regardless of the acreage of such lands which has actually been
19 conveyed to such corporations to the date hereof.

20 36. Such actions by the Secretary and the Department
21 as alleged herein will constitute a violation of the require-
22 ments and purposes of Section 22(e) of ANCSA.

23 37. Such actions by the Secretary and the Department,
24 as alleged herein, if otherwise lawful, constitute "major
25 Federal actions" within the meaning of NEPA.

26 38. Wherefore, plaintiff prays as to its Fourth Cause
27 of Action as follows:

28 a. That this Court enter an order enjoining
29 the Secretary and the Department from implementing Section
30 22(e) or ANCSA in the manner set forth in the "environmental
31 supplement", and as alleged in paragraph 35 of this
32 Complaint.

33 b. That this Court enter an order declaring
34 that any action proposed to be taken by the Secretary and the

1 Department, or either of them, pursuant to Section 22(e) of
2 ANCSA shall conform to the following requirements:

3 (1) Refuge replacement lands shall be
4 designated from public lands adjacent to, or in close proximity
5 to, the wildlife refuge whose lands require replacement;

6 (2) Refuge replacement lands shall be
7 designated on an acre-for-acre basis for those wildlife refuge
8 lands which are actually conveyed to Native village corporations
9 from time to time.

10 c. That this Court enter an order reinstating
11 plaintiff's land selection rights as to any lands withdrawn
12 pursuant to Section 22(e) of ANCSA which were withdrawn by
13 the Secretary under the erroneous interpretation of statutory
14 authority and intention as alleged herein.

15 d. That this Court enter an order declaring
16 that any action taken by the defendants to implement Section
17 22(e) of ANCSA, if otherwise lawful, shall constitute a "major
18 Federal action" within the meaning of NEPA.

19 e. That this Court enter such additional
20 orders as it may deem necessary to afford plaintiff complete
21 relief as prayed for in its Fourth Cause of Action.

22 IX.
23 FIFTH CAUSE OF ACTION

24 38. Plaintiff realleges and incorporates herein by
25 reference each and every legal assertion and statement of fact
26 set forth in paragraphs 1 through 37 of this Complaint.

27 40. The Secretary, the named Interior Department
28 defendants, and the Department, and each of them, threaten
29 certain actions as alleged in this Complaint which, if under-
30 taken, would breach the Memorandum of Agreement between the
31 Secretary's predecessor and plaintiff, and particularly those
32 provisions of said Agreement which provide for exercise of
33 plaintiff's land selection rights as to certain lands formerly
34 withdrawn pursuant to Section 11(a)(3) of ANCSA, 43 U.S.C.
§ 1610(a)(3), among others.

1 41. The Secretary, the named Interior Department
2 defendants, and the Department, and each of them, have
3 failed to take certain actions required of them by the Memorandum
4 of Agreement between the Secretary's predecessor and plaintiff,
5 and in particular have failed to make certain lands available
6 for state selection after completion of lawful selections by
7 the village corporations and regional corporations for whose
8 benefit the lands were first withdrawn, said failure is a direct
9 result of defendants' failure to promptly adjudicate and
10 reject all Native corporation selections in excess of lawful
11 entitlement, and their failure to promptly convey lawfully
12 selected lands to Native corporations in any priority specified
13 by such corporations, which listings of land conveyance pri-
14 orities the defendants have failed to require of such Native
15 corporations.

16 42. Wherefore, plaintiff prays as to its Fifth
17 Cause of Action that this Court grant it the following relief:

18 a. That this Court enter an order enjoining
19 defendants, and each of them, from taking or withholding any
20 action whose effect would constitute a breach of the provisions
21 of the aforesaid Memorandum of Agreement.

22 b. That this Court enter such additional
23 orders as it may deem necessary to afford plaintiff complete
24 relief as prayed for in its Fifth Cause of Action.

25 X.
26 SIXTH CAUSE OF ACTION

27 43. Plaintiff realleges and incorporates herein by
28 reference each and every legal assertion and statement of fact
29 set forth in paragraphs 1 through 42 of this Complaint.

30 44. The Secretary and the Department have interpreted
31 the provisions of Section 603 of FLPMA (43 U.S.C. § 1782) so as
32 to apply the requirements of said section to public lands which
33 have been or may be selected by plaintiff, notwithstanding the
34 specific exemption of plaintiff from the requirements of FLPMA

1 contained in Section 701(g)(6) of that Act, at 43 U.S.C.
2 note prec. § 1702.

3 45. The interpretation placed upon Section 603 of
4 FLPMA, as aforesaid, if applied to public lands in any manner
5 which would make such lands unavailable for selection by plain-
6 tiff, constitute a violation of Section 6 of the Alaska
7 Statehood Act and a breach of the compact between the United
8 States and the people of Alaska.

9 46. Wherefore, plaintiff prays as to its Sixth Cause
10 of Action that this Court grant it the following relief:

11 a. That this Court enter an order declaring
12 that section 603 of FLPMA (43 U.S.C. § 1782) is not applicable
13 to present and future land selections filed by plaintiff.

14 b. That this Court enter such additional
15 orders as it may deem necessary to afford plaintiff complete
16 relief as prayed for in its Sixth Cause of Action.

17 XI.
18 SEVENTH CAUSE OF ACTION

19 47. Plaintiff realleges and incorporates herein by
20 reference each and every legal assertion and statement of fact
21 set forth in paragraphs 1 through 46 of this Complaint.

22 48. The Secretary and the Department have proposed
23 to take certain actions pursuant to Section 204 of FLPMA, 43
24 U.S.C. § 1714, and particularly pursuant to subsections (b)
25 through (e) thereof, to withdraw lands for various purposes,
26 thus purportedly making such lands unavailable for selection
27 by plaintiff, notwithstanding the specific exemption of
28 plaintiff from the requirements of FLPMA contained in Section
29 701(g)(6) of that Act, as aforesaid.

30 49. Any action by the Secretary or the Department
31 to withdraw lands under authority of Section 204 of FLPMA, if
32 otherwise valid, constitutes a "major Federal action" within
33 the meaning of NEPA.

34 50. Wherefore, plaintiff prays as to its Seventh
Cause of Action that this Court grant it the following relief:

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 276-3550

1 a. That this Court enter an order declaring
2 that section 204(b) of FLPMA (43 U.S.C. § 1714(b)) cannot be
3 applied in any manner which would segregate or withdraw lands
4 from selection by plaintiff, and that any land selections
5 filed by plaintiff on any lands so segregated or withdrawn
6 shall be treated, if otherwise valid, as valid land selections.

7 b. That this Court enter an order declaring
8 that section 204(c) of FLPMA (43 U.S.C. § 1714(c)) cannot be
9 applied in any manner which would withdraw lands from selection
10 by plaintiff, and that any land selections filed by plaintiff
11 on any lands so withdrawn shall be treated, if otherwise valid,
12 as valid land selections.

13 c. That this Court enter an order declaring
14 that section 204(d) of FLPMA (43 U.S.C. § 1714(d)) cannot be
15 applied in any manner which would withdraw lands from selection
16 by plaintiff, and that any land selections filed by plaintiff
17 on any lands so withdrawn shall be treated, if otherwise valid
18 as valid land selections.

19 d. That this Court enter an order declaring
20 that section 204(e) of FLPMA (43 U.S.C. § 1714(e)) cannot be
21 applied in any manner which would withdraw lands from selection
22 by plaintiff, and that any land selections filed by plaintiff on
23 on any lands so withdrawn shall be treated, if otherwise valid,
24 as valid land selections.

25 e. That this Court enter an order declaring
26 that any withdrawal made, or to be made, by defendants pursuant
27 to Section 204 of FLPMA (43 U.S.C. § 1714), if otherwise
28 valid, shall constitute a "major Federal action" within the
29 meaning of NEPA.

30 f. That this Court enter such additional
31 orders as it may deem necessary to afford plaintiff complete
32 relief as prayed for in its Sixth Cause of Action.

33 /

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XII.
EIGHTH CAUSE OF ACTION.

51. Plaintiff realleges and incorporates herein by reference each and every legal assertion and statement of fact set forth in paragraphs 1 through 50 of this Complaint.

52. The Secretary and the Department, and each of them, have classified and withdrawn certain public lands in Alaska from selection by plaintiff pursuant to authority claimed to reside in Section 17(d)(1) of ANCSA, 43 U.S.C. § 1616(d)(1). Said withdrawals were imposed on or about March 15, 1972 and comprise substantially all of the Federal public lands in Alaska which would otherwise be available for selection by plaintiff under authority of Section 6 of the Alaska Statehood Act, as alleged elsewhere in this Complaint, and in addition also comprising those lands also withdrawn pursuant to Section 17(d)(2) of ANCSA, which withdrawal expires on December 17, 1978.

53. Insofar as said withdrawals pursuant to Section 17(d)(1) of ANCSA purport to prevent selection by plaintiff of lands not also withdrawn pursuant to Section 17(d)(2) of ANCSA and lands not described in paragraphs 2, 5, 6 and 8 of the Memorandum of Understanding dated September 1, 1972, said withdrawals constitute a violation of Section 6 of the Alaska Statehood Act and a breach of the compact between the United States and the people of Alaska.

54. Insofar as said withdrawals pursuant to Section 17(d)(1) of ANCSA purport to prevent selection by plaintiff after December 17, 1978 of lands described in paragraphs 2, 5, 6 and 8 of the Memorandum of Understanding dated September 1, 1972, said withdrawals constitute a violation of Section 6 of the Alaska Statehood Act and a breach of the compact between the United States and the people of Alaska.

55. Insofar as said withdrawals pursuant to Section 17(d)(1) of ANCSA purport to prevent selection by plaintiff

1 after December 17, 1978 of lands presently withdrawn pursuant
2 to Section 17(d)(2) of ANCSA, said withdrawals constitute a
3 violation of Section 6 of the Alaska Statehood Act and a breach
4 of the compact between the United States and the people of
5 Alaska.

6 56. Wherefore, plaintiff prays as to its Eighth
7 Cause of Action that this Court grant it the following relief:

8 a. That this Court enter an order declaring
9 that all land selections previously filed by plaintiff, and
10 those filed in the future, on public lands withdrawn pursuant
11 to Section 17(d)(1) only, shall, if such selections are other-
12 wise valid, be deemed valid selections of the public lands
13 encompassed by such selections pursuant to the grant contained
14 in Section 6 of the Alaska Statehood Act.

15 b. That this Court enter an order declaring
16 that all land selections filed by plaintiff after December 17,
17 1978 on lands formerly within withdrawals made pursuant to
18 Section 17(d)(2) of ANCSA, shall if such selections are other-
19 wise valid, be deemed effective selections of the public
20 lands encompassed by such selections pursuant to the grant
21 contained in Section 6 of the Alaska Statehood Act.

22 c. That this Court enter an order declaring
23 that all land selections filed by plaintiff after December 17,
24 1978 on lands described in paragraphs 2, 5, 6 and 8 of the
25 Memorandum of Understanding dated September 1, 1972, shall if
26 such selections are otherwise valid be deemed effective
27 selections of the public lands encompassed by such selections
28 pursuant to the grant contained in Section 6 of the Alaska
29 Statehood Act.

30 d. That this Court enter such additional orders
31 as it may deem necessary to afford plaintiff complete relief
32 as prayed for in its Eighth Cause of Action.

33 /
34 /

XIII.
NINTH CAUSE OF ACTION

57. Plaintiff realleges and incorporates herein by reference each and every legal assertion and statement of fact set forth in paragraphs 1 through 56 of this Complaint.

58. Upon information and belief, plaintiff alleges that the Secretary and the Secretary of Agriculture, or their agents, intend to impose certain segregations and withdrawals upon lands, including subsurface lands, contained within the National Forest System in Alaska under authority claimed to reside in Section 204(b)(1) of FLPMA, 43 U.S.C. § 1714(b)(1), which withdrawals, if imposed, will purport to preclude land selections by plaintiff pursuant to Section 6(a) of the Alaska Statehood Act, notwithstanding the specific exemption of plaintiff from the requirements of FLPMA contained in Section 701(g)(6) of that Act, as aforesaid.

59. The threatened actions by the Secretary and the Secretary of Agriculture, as alleged herein, if applied to lands within the National Forest System in Alaska in any manner which would make such lands unavailable for selection by plaintiff, constitute, together and separately, violations of Section 6 of the Alaska Statehood Act and a breach of the compact between the United States and the people of Alaska.

60. No environmental analysis or negative declaration has been issued by the Secretary or the Secretary of Agriculture, or either of them or their agents, regarding actions which plaintiff alleges are to be taken by such defendants pursuant to Section 204(b)(1) of FLPMA; nor were such actions or any alternatives to such actions addressed, considered or proposed in the EIS or the "environmental supplement".

61. Any action or application by the Secretary and the Secretary of Agriculture, or either of them, and their agents, to segregate or withdraw lands, including subsurface

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 276-3530

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 276-3550

1 lands, within the National Forest System in Alaska, if
2 otherwise valid, constitutes a "major Federal action" within
3 the meaning of NEPA.

4 62. Wherefore, plaintiff prays as to its Ninth
5 Cause of Action that this Court grant it the following relief:

6 a. That this Court enter an order declaring
7 that any application for segregation or withdrawal of National
8 Forest System lands in Alaska by the Secretary or the Secretary
9 of Agriculture, or either of them or their agents, shall not
10 have segregative effect as to any such lands selected by, or
11 to be selected by, plaintiff pursuant to Section 6(a) of the
12 Alaska Statehood Act, and that any land selections filed, or
13 to be filed, by plaintiff on any National Forest System lands
14 shall, if otherwise valid, be treated as valid land selections.

15 b. That this Court enter an order declaring
16 that any withdrawal of National Forest System lands in Alaska
17 by the Secretary or the Secretary of Agriculture, or either of
18 them or their agents, pursuant to Section 204(b)(1) of
19 FLPMA shall not prevent existing or future selections of
20 any of such lands by plaintiff under authority of Section
21 6(a) of the Alaska Statehood Act, and that any land selections
22 filed, or to be filed, by plaintiff on any lands so withdrawn,
23 shall, if otherwise valid, be treated as valid land selections.

24 c. That this Court enter an order declaring
25 that any application for withdrawal, or any withdrawal made
26 or to be made, by the Secretary or the Secretary of Agriculture,
27 or either of them or their agents, pursuant to Section 204(b)(1)
28 of FLPMA, if otherwise valid, shall be deemed to be a "major
29 Federal action" within the meaning of NEPA.

30 d. That this Court find that defendants' EIS
31 and "environmental supplement" violate the substantive
32 requirements of NEPA and applicable regulations with regard
33 to actions intended or threatened to be taken pursuant to
34 Section 204(b)(1) of FLPMA, and that no other lawful and

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 276-3550

1 adequate environmental assessment of the proposed actions
2 exists which is sufficient to meet the substantive require-
3 ments of NEPA.

4 e. That this Court find that defendants' EIS
5 and "environmental supplement" are inadequate to support the
6 proposed administrative actions pursuant to Section 204(b)(1)
7 of FLPMA as a matter of law;

8 f. That this Court enter an order enjoining
9 defendants, and each of them, from finally determining any
10 course of action, issuing any application or order for with-
11 drawal, or making any withdrawal of National Forest System
12 lands in Alaska until defendants have cured each of those
13 defects regarding proposed actions upon National Forest System
14 lands, and have offered adequate original, revised and
15 supplemented documents for reasonable public review, analysis
16 and comment.

17 g. That this Court enter such additional
18 orders as it may deem necessary to afford plaintiff complete
19 relief as prayed for in its Second Cause of Action.

20 XIV.
21 TENTH CAUSE OF ACTION

22 63. Plaintiff realleges and incorporates herein by
23 reference each and every legal assertion and statement of fact
24 set forth in paragraphs 1 through 62 of this Complaint.

25 64. ANCSA requires the Secretary, the other named
26 Interior Department agents, and the Department to immediately
27 convey to eligible Native village and regional corporations
28 these lands validly selected by them in fulfillment of the
29 land entitlements granted them by said Act, until those lands
30 validly selected have been conveyed in their entirety to said
31 corporations in the amount of their respective land entitle-
32 ments, pursuant to Sections 14(a), (b), and (e) thereof,
33 (43 U.S.C. ____,) among others.

34 65. ANCSA requires the Secretary to make public lands
in Alaska available for selection by plaintiff pursuant to

1 Sections 11 and 17 of the Act, among others, which lands are
2 comprised of lands not withdrawn under Section 17(d)(1)
3 of Section 17(d)(2)(A) of ANCSA, withdrawn lands in even-odd,
4 odd-even townships, and lands not validly selected by Native
5 village and regional corporations.

6 66. The Secretary has permitted Native village and
7 regional corporations to file selection applications, with
8 segregative effect, upon land amounts far in excess of their
9 respective land entitlements, together with any reasonable
10 overselection amount necessary for selection adjustments;
11 and the Secretary has conveyed selected lands to Native
12 corporations neither immediately nor expeditiously; and
13 the Secretary has failed to enforce existing statutory and
14 regulatory authority to reduce, reject and adjudicate excess
15 land selection applications filed by Native corporations.

16 67. Plaintiff has been prevented, by the Secretary's
17 actions and omissions as aforesaid, from exercising valid
18 land selection rights granted it by the Alaska Statehood
19 Act and guaranteed to it by ANCSA, as to several millions of
20 acres of federal lands upon which Native corporations have
21 filed land selection applications in excess of their respective
22 entitlements, due to the segregative effect of such selection
23 applications and regardless of their ultimate invalidity.

24 68. WHEREFORE, plaintiff prays as to its Tenth
25 Cause of Action that this Court grant it the following relief:

26 a. That this Court enter an Order declaring
27 that, until the Secretary conveys validly-selected lands to
28 Native village and regional corporations in fulfillment of
29 their entire respective entitlements, or until the Secretary
30 requires prioritizing, reduction and rejection of all excess
31 Native corporation selections and selection applications to an
32 amount of acreage not greater than 125 per cent of the total
33 remaining land entitlement of each Native corporation which
34 has not been conveyed to it by interim conveyance or patent,

1 whichever first occurs, all land selection applications filed
2 or filed in the future by plaintiff upon any such lands shall, if
3 otherwise valid, be considered valid selections of such lands,
4 subject only to conveyance of such lands to the Native Corpora-
5 tion whose land selection predated plaintiff's land selection.

6 b. That this Court enter such additional
7 orders as it may deem necessary to afford plaintiff complete
8 relief as prayed for in its Tenth Cause of Action.

9 XV.
10 ELEVENTH CAUSE OF ACTION

11 69. Plaintiff realleges and reincorporates herein
12 by reference each and every legal assertion and statement of
13 fact set forth in paragraphs 1 through 68 of this Complaint.

14 70. Plaintiff has incurred certain costs and fees
15 in the filing of this action.

16 71. Wherefore, plaintiff prays as to its Eleventh
17 Cause of Action that this Court enter an Order awarding it
18 costs and fees against defendants, and each of them.

19 DATED at Anchorage, Alaska this 9th day of
20 November, 1978.

21 AVRUM M. GROSS
22 ATTORNEY GENERAL

23 By: Thomas E. Meacham
24 Thomas E. Meacham
25 Assistant Attorney General
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DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
420 L STREET, SUITE 100
ANCHORAGE, ALASKA 99501
PHONE: 27C-3550

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE STATE OF ALASKA AND THE UNITED STATES

Whereas, the State of Alaska and the United States are both committed to the maintenance of a viable economy in Alaska, the preservation of Alaska's natural resources, including its wildlife and scenic values, the protection of the Alaskan environment, and the planned and orderly development of those lands required by the people of Alaska; and

Whereas, the State of Alaska and the United States both recognize the need to delineate the final boundaries of those lands which the Secretary of the Interior wishes to withdraw under §17(d)(2) of the Alaska Native Claims Settlement Act before September 18, 1972; and

Whereas the United States, acting through the Department of the Interior, the State of Alaska, and the Federal-State Land Use Planning Commission have each been studying the lands of Alaska and their resources, and the problems and conflicts involved in the use of these resources; and

Whereas, the State of Alaska, the Federal-State Land Use Planning Commission, and various members of the public, have each made a number of recommendations to the Secretary of the Interior concerning the final boundaries of those lands which the Secretary of the Interior wishes to withdraw under §17(d)(2) of the Alaska Native Claims Settlement Act, based upon their views of the resource values and human needs associated with these lands, and

Whereas, these recommendations have resulted in extended deliberations within the Department of the Interior and discussions with the representatives of the State of Alaska and various members of the public; and

Whereas, the United States and the State of Alaska both acknowledge the right of the State of Alaska to select up to 103,350,000 acres of federal lands as provided in the Alaska Statehood Act, and further recognize that the State of Alaska has made land selections under this authority to serve a broad range of state objectives including settlement, mineral and timber development, fish and wildlife management, public parks and recreation; and

Whereas, the State of Alaska and the United States both recognize that the litigation entitled State of Alaska v. Rogers C. B. Morton, et al. raises difficult and complex legal issues, and that the protracted litigation of those issues could delay the progress of land management programs of vital importance both to the State of Alaska and the United States; and

Whereas, the State of Alaska and the United States both agree that a program of cooperation, mutual study and planning will be of greater benefit to the people of Alaska and to the nation as a whole than will the continuation of the present litigation;

NOW, THEREFORE, the State of Alaska and the United States acting through the Secretary of the Interior enter into the following agreement:

1. DEFINITIONS

For the purposes of this memorandum: "State" will mean the State of Alaska. "Secretary" will mean the United States acting through the Secretary of the Interior. "Act" will mean the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 699. "Planning Commission" will mean the Federal-State Land Use Planning Commission.

2. STATE SELECTIONS

The Secretary will take the necessary steps, including the issuance of or the amendment of public land orders, to make the following lands available for State selection:

Gates of the Arctic Area

Fairbanks Meridian

T. 29 N, R. 24 W, SW 1/4 and E 1/2
T. 30 N, R. 24 W, E 1/2
T. 31 N, Rs. 19 through 24 W
T. 27 N, Rs. 1 and 2 E

Kateel River Meridian

T. 18 N, Rs. 23 through 26 E, R. 27 E (fractional)
T. 19 N, Rs. 23 through 26 E, R. 27 E (fractional)
T. 20 N, Rs. 23 E (E 1/2), Rs. 24 through 26 E, and 27 E (fractional)
T. 21 N, Rs. 24 through 26 E
T. 22 N, R. 25 E (E 1/2), R. 26 E

Yakatoga Area

Copper River Meridian

T. 19 S, Rs. 14 through 16 E, R. 18 E
T. 20 S, Rs. 18 and 19 E
T. 21 S, R. 20 E

Nowitna Area

Kateel River Meridian

T. 12 S, R. 21 E

Innoko Area

Kateel River Meridian

T. 25 S, Rs. 7 through 9 E
T. 26 S, Rs. 7 through 9 E
T. 27 S, R. 7 E
T. 28 S, R. 7 E
T. 29 S, R. 7 E (fractional)

Seward Meridian

T. 31 N, Rs. 44 and 45 W
T. 32 N, Rs. 44 and 45 W
T. 33 N, Rs. 43 and 44 W
T. 34 N, Rs. 43 and 44 W (fractional)

Wood River Area

Seward Meridian

T. 1 N, R. 58 W
T. 2 N, R. 58 W

Mt. McKinley Area

Seward Meridian

T. 25 N, Rs. 9 through 19 W
T. 26 N, Rs. 9 through 13 W
T. 27 N, Rs. 9 through 13 W
T. 28 N, R. 9 W
T. 28 N, R. 10 W Section 1 through 4, 9 through 16,
21 through 28, 33 through 36
T. 28 N, Rs. 12 and 13 W
T. 29 N, Rs. 7 and 8 W
T. 29 N, R. 9 W Sections 1 through 4, 8 through 36
T. 29 N, R. 10 W. Sections 25, 35, and 36
T. 30 N, R. 17 W
T. 30 N, R. 18 W
T. 31 N, R. 17 W
T. 31 N, R. 16 W
T. 31 N, R. 15 W, Sections 4 through 9, and 18
T. 32 N, R. 15 W, (W 1/2)
T. 32 N, R. 16 W
T. 33 N, R. 15 W (fractional) W 1/2
T. 33 N, R. 16 W

3. SECTION 17(d)(1) LANDS

The Secretary will withdraw the following lands under Section 17(d)

(1) of the Act for further study of their public values and for classification:

Yakutat Area

Copper River Meridian

T. 22 S, R. 38 E (fractional)
T. 23 S, R. 37 E (fractional)
T. 24 S, R. 37 E (fractional)
T. 25 S, R. 40 E (fractional)
T. 25 S, R. 41 E (fractional)
T. 27 S, R. 42 E (fractional)
T. 27 S, R. 43 E (fractional)
T. 28 S, R. 42 E
T. 28 S, R. 43 E (fractional)
T. 28 S, R. 44 E (fractional)
T. 30 S, Rs. 45 and 46 E (fractional)
T. 31 S, R. 47 E (fractional)
T. 22 S, R. 37 E (fractional)
T. 23 S, Rs. 38 and 39 E (fractional)

Copper River Meridian (Cont'd.)

T. 24 S, Rs. 38 and 39 E (fractional)
T. 25 S, Rs. 38 and 39 E (fractional)
T. 26 S, R. 38 (that portion outside of the Tongass N. F.)
T. 26 S, Rs. 39 through 41 E
T. 26 S, R. 42 E (fractional)
T. 27 S, Rs. 38 through 41 E
T. 28 S, Rs. 37 and 41 E (fractional)
T. 29 S, Rs. 42 and 43 E
T. 29 S, Rs. 38 through 41 E, north of Tongass National Forest
T. 29 S, Rs. 44 and 45 E (fractional)
T. 30 S, Rs. 39, 40 and 41 E, north of Tongass National Forest
T. 30 S, Rs. 42 and 43 E (fractional)
T. 31 S, Rs. 43 and 44 E
T. 31 S, R. 42 E, east of Tongass National Forest
T. 31 S, Rs. 45 and 46 E (fractional)
T. 32 S, R. 42 E, east of Tongass National Forest
T. 32 S, Rs. 43 through 46 E
T. 32 S, R. 47 E (fractional)
T. 33 S, Rs. 43 through 46 E
T. 33 S, R. 42 E, east of Tongass National Forest
T. 33 S, R. 47 E, (fractional)
T. 34 S, Rs. 44 through 47 E
T. 35 S, Rs. 45 through 47 E, North of Glacier Bay National Monument

Gates of the Arctic Area

Fairbanks Meridian

T. 32 N, Rs. 14, 15, 16, 17 W
T. 31 N, Rs. 14, 15, 16 W
T. 30 N, Rs. 14, 15, 16 W
T. 29 N, Rs. 13, 14, 15 W
T. 28 N, Rs. 14, 15, 16 W
T. 27 N, Rs. 15, 16 W

Charley River Area

Fairbanks Meridian

T. 1 N, Rs. 21, 22, 23, 24 E
T. 2 N, Rs. 21, 22, 23, 24 E

McCarthy Area

Copper River Meridian

T. 3 S, Rs. 10, 11, 12, 13, 14 and 15 E, (S 1/2)
T. 4 S, Rs. 11, 12, 13, 14 and 15 E
T. 5 S, Rs. 11, 12, 13, 14, 15, 16, 17 and 18 E
T. 6 S, Rs. 11 through 18 E
T. 7 S, Rs. 14 through 18 E
T. 8 S, Rs. 16 through 18 E

Excludes any patented lands.

4. DEFICIENCY LAND AND 17(d)(1) LANDS

The following lands will either be withdrawn under Section 11(a)(3) of the Act as deficiency lands for the selection by the Village Corporations or the Regional Corporation for the Cook Inlet Region or for study and classification by the Secretary under Section 17(d)(1) of the Act. The Secretary will determine which lands should be placed in each of the two categories.

Lake Clark Area

Seward Meridian

T. 1 S, Rs. 26, 27, 28, 29 W
T. 3 S, Rs. 20, 21 W (fractional)
T. 3 S, R. 22 W (fractional)
T. 3 S, R. 23 W
T. 3 S, R. 24 W (E 1/2)
T. 4 S, Rs. 22 and 23 W (fractional)
T. 4 S, R. 24 W
T. 5 S, R. 22 W (fractional)
T. 5 S, R. 23 W
T. 5 S, Rs. 24 and 25 W (fractional)
T. 6 S, Rs. 22 through 26 (fractional)
T. 7 S, Rs. 25, 26 W (fractional)
T. 7 S, R. 27 W E 1/2
T. 8 S, R. 26 W (fractional)
T. 8 S, R. 27 W
T. 8 S, R. 28 W E 1/2
T. 9 S, Rs. 27 and 28 W (fractional)
T. 9 S, R. 29 W (fractional) E 1/2
T. 1 N, Rs. 26, 27, 28, 29 W
T. 2 N, Rs. 25, 26, 27, 28 W
T. 3 N, Rs. 28, 29, 30 W
T. 4 N, Rs. 30, 31 W

Illiamna Area

Seward Meridian

T. 12 S, Rs. 31, 32 W
T. 11 S, Rs. 29, 30, 31, 32 W
T. 10 S, Rs. 28 partial, 29, 30 W

5. STATE SELECTIONS AFTER NATIVE CORPORATIONS SELECTIONS

The following list of lands will be made available for State selection after the completion of all selections by the Village Corporations or Regional Corporation for whose benefit the lands are presently withdrawn.

Tyonek Village Deficiency Withdrawal (Cook Inlet Region)

Seward Meridian (Protraction Description)

T. 10 N, R. 16 W (W 1/2)
T. 10 N, Rs. 17 through 20 W
T. 11 N, Rs. 17 through 20 W
T. 12 N, Rs. 16 through 20 W
T. 13 N, Rs. 16 through 20 W
T. 14 N, Rs. 16 through 20 W
T. 15 N, Rs. 15 through 20 W
T. 16 N, Rs. 15 through 20 W
T. 17 N, Rs. 15 through 20 W
T. 18 N, Rs. 15 through 20 W
T. 19 N, Rs. 15 through 18 W
T. 20 N, Rs. 15 through 17 W

Eklutna Village Deficiency Withdrawal (Cook Inlet Region)

Seward Meridian (Protraction Description)

T. 12 N, Rs. 4 and 5 E
T. 13 N, Rs. 4 through 6 E
T. 14 N, Rs. 4 through 7 E
T. 15 N, Rs. 4 through 8 E
T. 16 N, Rs. 4 through 10 E
T. 17 N, Rs. 4 through 10 E
T. 18 N, Rs. 4 through 10 E
T. 19 N, Rs. 6 and 7 E
T. 20 N, R. 3 E
T. 21 N, Rs. 1 through 5 E
T. 22 N, Rs. 1 through 4 E
T. 23 N, R. 1 E
T. 21 N, Rs. 1 and 2 W
T. 22 N, Rs. 1 and 2 W

Copper River Regional Deficiency

Copper River Meridian (Protraction Description)

T. 1 N, Rs. 3 through 11 W
T. 2 N, Rs. 3, 4, 10 and 11 W
T. 1 S, Rs. 3 through 11 W
T. 2 S, Rs. 1 through 11 W
T. 3 S, Rs. 1 through 11 W
T. 4 S, Rs. 1 through 11 W
T. 5 S, Rs. 2 through 11 W
T. 6 S, Rs. 2 through 9 W
T. 7 S, Rs. 2 through 5 W

Seward Meridian (Protraction Description)

Ts. 15 through 22 N., Rs. 11 and 12 E

Chugach Regional Deficiency Withdrawal

Copper River Meridian (Protraction Description)

T. 7 S, Rs. 6 through 11 W
T. 8 S, Rs. 4, 8 through 11 W (North of Chugach National Forest)
T. 9 S, R. 2 W
T. 10 S, Rs. 2, 3, 4 W
T. 10 S, R. 5 W (East of Chugach National Forest)
T. 11 S, Rs. 2 and 3 W
T. 11 S, Rs. 4 and 5 W (East of Chugach National Forest)
T. 12 S, R. 1 W
T. 12 S, Rs. 2, 3 W (East of Chugach National Forest)
T. 13 S, R. 1 W (East of Chugach National Forest)
T. 13 S, R. 1 E (East of Chugach National Forest)
T. 14 S, R. 1 E (East of Chugach National Forest)

Tanana Chiefs Regional Deficiency Withdrawal (Kandik Basin)

Fairbanks Meridian (Protraction Description)

T. 4 N, Rs. 32 and 33 E
T. 5 N, Rs. 31 and 32 E
T. 6 N, Rs. 29 through 32 E
T. 7 N, Rs. 29 through 32 E
T. 8 N, Rs. 21 through 32 E
T. 9 N, Rs. 20 through 32 E
T. 10 N, Rs. 21 through 32 E
T. 11 N, Rs. 21 through 32 E
T. 12 N, Rs. 21 through 32 E
T. 13 N, Rs. 24 through 32 E
T. 14 N, Rs. 24 through 32 E
T. 15 N, Rs. 27 through 32 E
T. 16 N, Rs. 27 through 32 E
T. 17 N, Rs. 27 through 31 E
T. 18 N, Rs. 27 through 31 E
T. 19 N, Rs. 27 through 31 E
T. 20 N, Rs. 27 through 31 E
T. 21 N, Rs. 27 through 31 E
T. 22 N, Rs. 27 through 31 E
T. 23 N, Rs. 27 through 31 E
T. 24 N, Rs. 27 through 31 E
T. 25 N, Rs. 28, 29, and 30 E
T. 26 N, Rs. 28, 29, and 30 E
T. 27 N, Rs. 29 and 30 E
T. 28 N, Rs. 29 and 30 E

6. SUBMISSION TO PLANNING COMMISSION

The following lands will be jointly submitted immediately to the Planning Commission by the Secretary and the State with a recommendation that the Planning Commission give priority to the establishment of a land use plan for these lands:

Seward Meridian

T. 27 N, Rs. 12 and 13 W
T. 28 N, Rs. 12 and 13 W

7. RECOMMENDATIONS TO CONGRESS

The Secretary agrees that any recommendation to Congress concerning the following lands and their inclusion in national parks, forests, wildlife refuges, or wild and scenic rivers systems will include a recommendation that these lands remain open to hunting:

Seward Meridian (Protraction Description)

T. 38 S, R. 51 W (fractional)
T. 39 S, R. 51 W (fractional)
T. 39 S, R. 52 W (fractional)
T. 40 S, R. 52 W (fractional)
T. 40 S, R. 53 W (fractional)
T. 40 S, R. 54 W (fractional)
T. 41 S, R. 51 W (fractional)
T. 41 S, R. 52 W (fractional)
T. 41 S, R. 53 W (fractional)
T. 41 S, R. 54 W (fractional)
T. 41 S, R. 55 W (fractional)
T. 41 S, R. 56 W (fractional)
T. 42 S, R. 54 W (fractional)
T. 42 S, R. 55 W (fractional)
T. 42 S, R. 56 W (fractional)
T. 43 S, R. 54 W (fractional)
T. 43 S, R. 55 W (fractional)
T. 43 S, R. 56 W (fractional)

8. COOPERATIVE AGREEMENT FOR WILDLIFE MANAGEMENT

The State and the Secretary will enter into a cooperative agreement for the management of the wildlife resources in the general areas of the following described lands:

Umat Meridian (Protraction Description)

T. 15 S, R. 36 E
T. 16 S, Rs. 36 and 37 E
T. 17 S, Rs. 35, 36 and 37 E

Fairbanks Meridian (Protraction Description)

T. 37 N, Rs. 17 through 19 E
T. 36 N, Rs. 17 through 30 E
T. 35 N, Rs. 17 through 30 E
T. 34 N, Rs. 17 through 30 E
T. 33 N, Rs. 17 through 30 E

9. WITHDRAWAL OF STATE SELECTIONS

The State will withdraw its selection of the following lands and the Secretary will then include these lands in a withdrawal under Section 11(a)(3) of the Act for deficiency selections by Village Corporations or the Regional Corporation of the Cook

Inlet Region:

Seward Meridian

T. 8 N, R. 29 W

T. 9 N, Rs. 28 and 29 W

T. 10 N, Rs. 28 and 29 W

T. 11 N, R. 28 W

10. LANDS NO LONGER IN CONTROVERSY

The State and the Secretary agree that lands not specifically described herein are no longer in controversy and their selection, withdrawal, or disposition are not relevant to the settlement of any litigation between the State and the Secretary. The State expressly agrees to withdraw all those State selections filed on January 21 and January 24, 1972, which are for lands not described in paragraphs 2, 5, 6, or 8 of this memorandum or which are not in PLO 5186, and the State acknowledges the validity of Public Land Orders 5169 through 5184, 5187, 5188, and 5190 through 5195, as such orders relate to the lands described in paragraphs 3, 4, 5, 7, and 9. The Secretary agrees to proceed immediately with the adjudication of those State selections which will be made pursuant to this agreement.

11. DISMISSAL OF LITIGATION

The State and the Secretary agree to the dismissal with prejudice of the litigation entitled Alaska v. Morton, et al., Civil Action No. A-48-72. The State further agrees not to challenge the validity of Public Land Orders 5150, 5151, 5156, 5169 through 5188, and 5190 through 5195, or to challenge those portions of any public land orders which the Secretary will issue in order to perform all the acts specified in this agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 1st day of September, 1972.

James B. Morton
Secretary of the Interior of the
United States of America

William P. Egan
Governor of the State of Alaska

BIRCH, HORTON, BITTNER & MONROE
733 West Fourth Avenue, Suite 206
Anchorage, Alaska 99501

(907) 279-9403

Attorneys for Applicants
THE STEERING COUNCIL FOR ALASKA LANDS AND
REPRESENTATIVE STEVE COWPER, CHAIRMAN OF THE
STEERING COUNCIL FOR ALASKA LANDS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

AT ANCHORAGE

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	A 78-291 Civil
	)	
JAMES EARL CARTER, President	)	
of the United States, in his	)	MOTION TO INTERVENE
individual capacity;	)	
CECIL D. ANDRUS, Secretary	)	AS PLAINTIFFS
of the Interior, in his	)	
individual capacity;	)	
UNITED STATES DEPARTMENT OF	)	
THE INTERIOR,	)	
	)	
Defendants.	)	
	)	
	)	

The Steering Council for Alaska Lands and Steve Cowper, individually and in his capacity as Chairman of the Steering Council for Alaska Lands, respectfully move this Honorable Court for leave to intervene as plaintiffs in the instant action, in order to assert the claims and seek the relief set forth in the proposed Complaint, a copy of which is attached hereto, on the grounds set forth in the aforesaid Complaint, pursuant to Rule 24 of the Federal Rules of Civil Procedure, 28 U.S.C. The grounds for this motion are the following:

BIRCH, HORTON, BITTNER AND MONROE
ATTORNEYS AT LAW
4400 JENIFER ST., N.W., SUITE 300
WASHINGTON, D.C. 20015
TELEPHONE (202) 244-4250