

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

698 SCOMM22: ALASKA LANDS FILE 1977-78

1. The Steering Council for Alaska Lands, hereinafter referred to as Council, was established by statute duly enacted, effective May 21, 1977, Ch. 47, SLA 1977.

2. The composition of the Council is the following:

Senator Mike Colletta

Senator Joe Orsini ✓

Senator Chancy Croft ✓

Representative Steve Cowper ✓

Representative Alvin Osterback

Representative Joe Hayes

Robert LeResche, Commissioner of the State

Department of Natural Resources

Walter Parker, State Cochairman, Joint Federal-

State Land Use Planning Commission

Carl Jack, representing Alaska Natives

C.C. Hawley of the Alaska Miners Association

David Cline of the Audubon Society.

3. The statutorily mandated duties of the Council are as follows:

a. Ensure the full recognition of the land selection rights of the State of Alaska;

b. Assure that Alaska natives are provided an economic base in their lands;

c. Ensure that Alaska's needs and future requirements are made known to Congress;

d. Provide a forum for Alaskans to develop recommendations to protect Alaska's present and future needs;

e. Direct research into various matters pertaining to the State's land selection rights including, but not limited to, the use of selected land by the State of Alaska;

f. Make recommendations to the Governor and the Legislative Council for further action to assert the rights of the State to select land;

g. Work with the Alaska Congressional delegation to develop recommendations for appropriate State legislation;

h. Formulate and implement policies on behalf of the State with regard to Sections 17(d)(1) and (2) of the Alaska Native Claims Settlement Act, 43 U.S.C. §§1616(d)(1) and (2) (1970), hereinafter referred to as ANSCA.

4. The Council was established by the Legislature of the State of Alaska and commanded to perform these duties under and pursuant to the Legislature's exercise of its powers granted by Articles II and VIII of the Alaska Constitution, and particularly Article VIII, §§ 2, 5 and 6, which confer the following explicit constitutional responsibilities upon the Legislature, apart from and in addition to its general Article II law making authority:

a. The Legislature shall provide for the utilization, development, and conservation of all natural resources, including land, for the maximum benefit of the people of Alaska;

b. The Legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands; and

c. The Legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

5. The Council and its Chairman appear here as the legislatively created vehicle for the exercise and implementation of the aforesaid constitutional responsibilities.

6. The Council and its Chairman have interests relating to the matters which are the subject of the instant action. These interests include:

a. The exercise and implementation of the Legislature's constitutionally mandated duties with regard to land and natural resources in Alaska, particularly including the selection of lands granted to the State by the United States, as contained in Article VIII of the Alaska Constitution and as set forth above in paragraph four (4);

b. The protection and preservation of the prerogatives of the Legislature emanating from Article II of the Alaska Constitution;

c. The preservation and protection of the Council's autonomous policy making and implementing function as set forth in the Council's enabling statute and referred to above;

d. The preservation and protection of the Council's statutorily mandated responsibility to assure that Alaska Natives are provided an economic base in their land;

e. The preservation and protection of the Council's statutorily mandated responsibility to gather critical information from and provide it to all persons and elements involved in the matters arising out of Sections 17(d)(1) and (2) of ANCSA, generically known as the (d)(2) land issue;

f. The preservation and protection of the Council's statutorily mandated responsibility to ensure the full recognition of State land selection rights on behalf of the Legislature;

g. The preservation and protection of the Council's statutorily mandated responsibility to make recommendations for action on (d)(2) and State land selection issues on behalf of the Legislature to the Governor, the Legislative Council, and the Alaska congressional delegation;

h. The preservation and protection of its statutorily mandated responsibility to serve as a forum for Alaskans to develop recommendations to protect Alaska's present and future needs;

i. The preservation and protection of the Council's statutorily mandated responsibility as an investigatory arm of the Legislature in the matters of (d)(2) lands and State land selection rights; and

j. The preservation and protection of the Council's constitutionally and statutorily mandated responsibility to function in these areas independently of the Executive Branch of the State Government.

7. The Steering Council and its Chairman are so situated that resolution of this action without their presence

as parties as a practical matter will impair and impede their ability to protect their interests as set forth above for the following reasons, among others:

a. The Complaint seeks final determination of all material and significant issues regarding the actions of the President and the Secretary of the Interior, leaving none, to the knowledge of the Council, for resolution subsequently;

b. A decision in this litigation effectively will be binding in all subsequent litigation, as it will be the initial and seminal decision on the issues raised directly and indirectly in the Complaint;

c. The issues presented involve substantial and complex questions of statutory and constitutional law of first impression which will have obvious direct and manifold indirect consequences for the applicants;

d. The applicants by virtue of the constitutional and statutory provisions set forth above are, and will continue to be, significant, interested, and integral parties in the matters of (d)(2) and other public lands and state selection rights, of which matters this litigation is a critical and sizeable element and upon which it will be of great effect.

e. The applicants, given the particular and unique constitutional and statutory duties, will not be adequately represented by any other party to the litigation, particularly due to the distinct and potentially adverse interests, responsibilities, and authority of the Council on the one hand and the State as represented by the Executive on the other.

9. This motion is timely filed, as the Complaint was filed recently and the litigation is still in the pleading stage.

10. This motion, and the requested intervention by the Council and its Chairman, will not unduly delay the litigation or prejudice the litigation rights of existing parties.

11. This motion, and the requested intervention by the Council and its Chairman, will not unduly and fruitlessly complicate the litigation, as the essential claims underlying the Council's challenge to the action of the Defendants are substantially the same as those of the State and involve common and substantially identical questions of law and fact. Allowance of this application for intervention will avoid otherwise needless duplicate litigation.

12. The applicants for intervention herein request oral argument on this motion.

WHEREFORE, for the foregoing reasons, applicants Council and Cowper respectfully pray that this Honorable Court grant them leave to intervene in the instant lawsuit as of right or, in the alternative, permissively, pursuant to Rule 24 of the Federal Rules of Civil Procedure.

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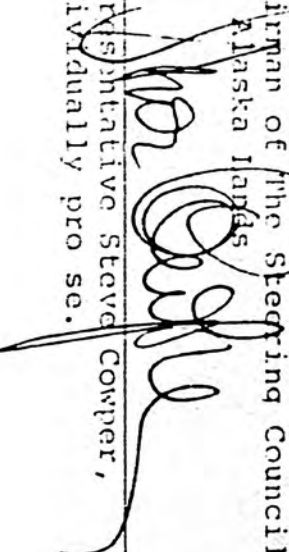
Respectfully submitted,

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

By: _____

Ronald G. Birch

Attorneys for The Steering Council
for Alaska Lands and Steve Cooper,
Chairman of The Steering Council
for Alaska Lands


Representative Steve Cooper,
individually pro se.

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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
individual capacity;

CECIL D. ANDRUS, Secretary
of the Interior, in his
individual capacity;

UNITED STATES DEPARTMENT OF
THE INTERIOR, *

Defendants.

NOTICE OF MOTION

TO: CECIL D. ANDRUS
Secretary of the Interior
United States Department
of Interior
Main Building
18th & C Streets, N.W.
Washington, D.C.

PLEASE TAKE NOTICE that the undersigned will bring a
Motion for Intervention on for hearing in the above entitled
matter before this Court in Room _____, United States
Courthouse, Federal Building, Anchorage, Alaska, on the
_____ day of November, 1978, at _____ m. or as soon

*Pursuant to Rule 25(D)(2) of the Federal Rules of Civil
Procedure, add Cecil D. Andrus, in his official capacity,
(5USC Sections 701-706).

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WASHINGTON, D.C. 20015
TELEPHONE (202) 244-4250

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

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

For By 
Ronald G. Birch

Attorneys for The Steering Council
for Alaska Lands and Steve Cowper,
Chairman of The Steering Council
for Alaska Lands


Representative Steve Cowper,
individually pro se.

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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	)	NOTICE OF MOTION
of the United States, in his	)	
individual capacity;	)	
CECIL D. ANDRUS, Secretary	)	
of the Interior, in his	)	
individual capacity;	)	
UNITED STATES DEPARTMENT OF	)	
THE INTERIOR,*	)	
	)	
Defendants.	)	
	)	
	)	
	)	

TO: JAMES EARL CARTER
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, D.C.

PLEASE TAKE NOTICE that the undersigned will bring a
Motion for Intervention on for hearing in the above entitled
matter before this Court in Room _____, United States
Courthouse, Federal Building, Anchorage, Alaska, on the
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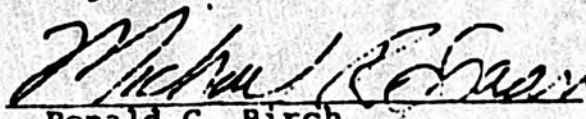
*Pursuant to Rule 25(D)(2) of the Federal Rules of Civil
Procedure, add Cecil D. Andrus, in his official capacity,
(50 USC Sections 701-706).

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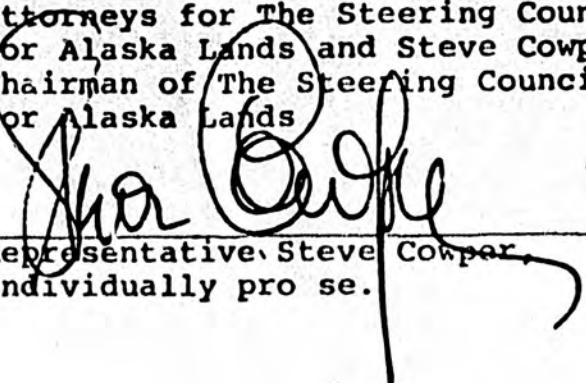
thereafter as counsel can be heard.

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

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For By: 
Ronald G. Birch

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for Alaska Lands and Steve Cowper,
Chairman of The Steering Council
for Alaska Lands


Representative Steve Cowper,
individually pro se.

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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
individual capacity;

NOTICE OF MOTION

CECIL D. ANDRUS, Secretary
of the Interior, in his
individual capacity;
UNITED STATES DEPARTMENT OF
THE INTERIOR,*

Defendants.

NOTICE OF MOTION

TO: AVRUM M. GROSS
Attorney General for the State of Alaska
Attorney for Plaintiff
420 L Street, Suite 100
Anchorage, Alaska 99501

PLEASE TAKE NOTICE that the undersigned will bring a
Motion for Intervention on for hearing in the above entitled
matter before this Court in Room _____, United States
Courthouse, Federal Building, Anchorage, Alaska, on the
_____ day of November, 1978, at _____ m. or as soon
thereafter as counsel can be heard.

*Pursuant to Rule 25(d)(2) of the Federal Rules of Civil
Procedure, add Cecil D. Andrus, in his official capacity,
(5USC Sections 701-706).

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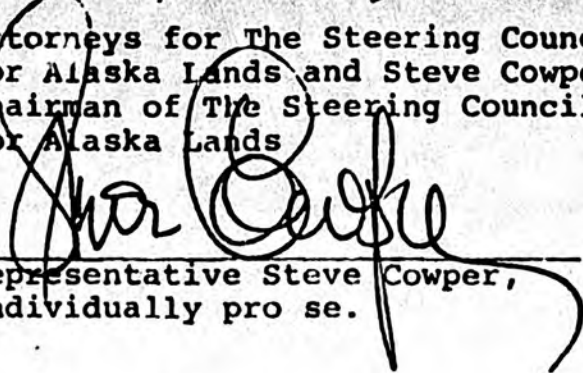
DATED this 9th day of November, 1978, at Anchorage,
Alaska.

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

By 

Ronald G. Birch

Attorneys for The Steering Council
for Alaska Lands and Steve Cowper,
Chairman of The Steering Council
for Alaska Lands


Representative Steve Cowper,
individually pro se.

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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,)
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vs.)
)
JAMES EARL CARTER, President)
of the United States, in his)
individual capacity;)
CECIL D. ANDRUS, Secretary)
of the Interior, in his)
individual capacity;)
UNITED STATES DEPARTMENT OF)
THE INTERIOR*,)
)
Defendants.)
)

Case No. A 78-291 Civil

AFFIDAVIT OF MAILING

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

LESLIE MORRILL, first being duly sworn on her
oath, deposes and says that she is a secretary in the offices of
BIRCH, HORTON, BITTNER & MONROE, 733 West Fourth Avenue, Suite
206, Anchorage, Alaska 99501, and that on the 9th day of
November, 1978, she served a true and correct copy of
the Memorandum of Points and Authorities in Support of Motion to
Intervene as Plaintiffs, Motion to Intervene as Plaintiffs,
Complaint for Declaratory and Injunctive Relief, Notice of

*Pursuant to Rule 25(d)(2) of the Federal Rules of Civil
Procedure, add Cecil D. Andrus, in his official capacity,
(5USC Sections 701-706).

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ATTORNEYS AT LAW
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ANCHORAGE, ALASKA 99501
TELEPHONE (907) 279-9403

Motion to Avrum M. Gross, Attorney General for the State of Alaska, Notice of Motion to James Earl Carter, President of the United States, and Notice of Motion to Cecil D. Andrus, Secretary of the Interior, by depositing the same, with sufficient postage, in the United States mail, addressed to:

AVRUM M. GROSS
Attorney General for the State of Alaska
Attorney for Plaintiff
420 "L" Street, Suite 100
Anchorage, Alaska 99501

James Earl Carter
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, D.C.

Cecil D. Andrus
Secretary of the Interior
United States Department of the Interior
Main Building
18th & C Streets, N.W.
Washington, D.C.

on behalf of Steering Council for Alaska Lands and Representative
Steve Cowper, Plaintiff-Intervenors.

Leslie Morrill
Leslie Morrill

SUBSCRIBED AND SWORN to before me this 10th day of
November, 1978.

[Signature]
NOTARY PUBLIC IN AND FOR ALASKA
My Commission expires: 2/23/81

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Attorneys for Applicants
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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	)	
	)	
and	)	
	)	
STEERING COUNCIL FOR ALASKA	)	
LANDS,	)	
and	)	
REPRESENTATIVE STEVE COWPER	)	
	)	
Plaintiff Intervenor	)	CASE NO. A78-291 Civil
	)	
v.	)	COMPLAINT FOR DECLARATORY
	)	AND INJUNCTIVE RELIEF
	)	
JAMES EARL CARTER, President,	)	
et al.	)	
	)	
Defendants	)	

I
NATURE OF ACTION

1. This is an action for declaratory and injunctive relief pursuant to 24 United States Code, Section 2201 and 28 United States Code, Section 1331, against the named individual defendants and the agents of the named agency. The amount in controversy exceeds in value the amount of \$10,000.

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II JURISDICTION

2. This Court has jurisdiction to hear and decide the issues raised in this action by virtue of 28 United States Code, Section 1331. This Court also has jurisdiction to hear and decide the issues raised in this action by virtue of 5 United States Code, Sections 701 through 706.

III DEFENDANTS

3. Defendant, James Earl Carter, (hereinafter referred to as "the President"), is the President and Chief Executive of the United States of America.

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

5. Defendant, United States Department of the Interior, (hereinafter referred to as "the Department"), are those persons in said Department who act or withhold action at the direction of the Secretary. Designation of said agency as defendant shall include the officers and agents of all component branches, assistant secretariats, bureaus, and services.

IV INTERVENORS

6. The Legislature of the State of Alaska, in exer-

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cise of the authority granted in Article II and Article VIII, Sections 2, 5 and 6, of the Constitution of the State of Alaska, created the Steering Council for Alaska Lands, May 21, 1977, Ch. 47 SLA 1977.

7. Article VIII, Section 2, of the Constitution of the State of Alaska gives the Legislature the specific and plenary authority to

provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

8. Article VIII, Section 6, of the Constitution of the State of Alaska additionally orders the State Legislature to manage and protect the State's public domain:

Section 6. State Public Domain. Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States and for the administration of the state public domain.

9. The above cited articles of the Alaska Constitution define the full scope of the powers, duties, and obligations granted to and placed upon the Steering Council

for Alaska Lands in its enabling legislation.

10. The enabling legislation provides that the Steering Council shall comprise eleven (11) members, drawn from both the public and private sectors of Alaska citizens. The members are as follows:

a) Six (6) members of the Alaska Legislature:

- i) Senator Mike Colletta,
- ii) Senator Joe Orsini,
- iii) Senator Chancey Croft,
- iv) Representative Steve Cowper,
- v) Representative Alvin Osterback,
- vi) Representative Joseph Hayes; and

b) Five (5) members, representing a cross section of Alaska citizens, appointed by the Governor:

- i) Walter Parker, State Co-Chairman of the Joint Federal-State Land Use Planning Commission,
- ii) Robert LeResche, Commissioner of the State Department of Natural Resources,
- iii) Carl Jack of the Alaska Native Community,
- iv) Charles C. Hawley of the Alaska Miners' Association,
- v) David Cline of the Audubon Society.

11. The enabling legislation directs the Steering Council to carry out the following duties:

- a) Insure the full recognition of the land selection rights of the State of Alaska;
- b) Assure the provision of an economic base for Alaska natives;
- c) Insure that the needs and future requirements of the State are made known to members of Congress;
- d) Provide a forum for Alaskans to develop recommendations to protect Alaska's present and future needs;
- e) Direct research into various matters pertaining to the State's land selection rights, including, but not limited to, the use of lands selected by the State of Alaska;
- f) Make recommendations to the Governor and the Legislative Council for further action with respect to the rights of the State to select public land;
- g) Work with the Alaska congressional delegation to develop recommendations for appropriate State legislation;

- h) Formulate and advocate policies on behalf of the State with regard to Sections 17(d)(1) and (d)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. §§1616(d)(1) and (d)(2) (1970), hereinafter referred to as ANCSA.

12. Steve Cowper is the elected Chairman of the Steering Council for Alaska Lands and is a resident of and a landowner in Alaska. He frequently hunts and fishes and makes other recreational use of public lands in the State of Alaska, some of which are subject to withdrawal under Sections 17(d)(1) and (2) of ANCSA.

13. The Defendants' actions which constitute the basis of this Complaint and the Complaint filed by the State of Alaska threaten to impair or preclude Mr. Cowper's recreational activities and make it difficult if not impossible as a practical matter to fully assess the impact of the Defendants' proposals on Mr. Cowper's interests asserted herein.

14. In the exercise of both the statutory and constitutional obligations flowing from the State Legislature to the Steering Council for Alaska Lands, the Steering Council has formulated and advocated consensus positions with respect to the disposition and management of public lands subject to the withdrawal authority of Sections 17(d)(1) and (2) of ANCSA.

15. The resolutions and policies adopted by the Steering Council are pursuant to its authority and that of

the Legislature to protect and manage the State public domain, the natural resources belonging to the State, and State selection rights granted to the State in the Statehood Act of 1958, 43 U.S.C. Prec. §1.

16. The resolutions and policy positions taken with respect to the public land issues have from time to time differed from those set by the Office of the Governor of Alaska. Such different, although not necessarily adverse, positions and policies arise because the Steering Council has interests diverse from those of the Governor. The positions of the Steering Council reflect the workings and compromises of a group composed of different, varied, and often conflicting interests.

IV FIRST CAUSE OF ACTION

17. Intervenor's allege and incorporate by reference herein the Statement of Facts and the seven (7) causes of action alleged in Paragraphs seven (7) through fifty-one (51) of the Complaint filed by the State of Alaska in this matter.

V SECOND CAUSE OF ACTION

18. Intervenor's reallege and incorporate by reference each and every legal and factual assertion set forth in Paragraphs seven (7) through twenty-five (25) of the Complaint filed by the State of Alaska in this action and each and every legal and factual assertion set forth in Paragraphs one

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(1) through seventeen (17) of this Complaint.

19. Intervenor further allege on information and belief that the public land in the State of Alaska which has been withdrawn pursuant to the authority granted in Sections 17(d)(1) and (d)(2) of ANCSA is presently managed by the Bureau of Land Management of the Department of Interior.

20. Pursuant to the authority granted in the National Environmental Policy Act of 1969 and Executive Order 11514, the Department of Interior through its individual departments including the Bureau of Land Management has promulgated rules and regulations governing the preparation of environmental impact statements.

21. Rule .52D of Bulletin 1792, "Environmental Statements", prepared by the Bureau of Land Management governs the preparation of environmental impact statements for lands subject to the jurisdiction of the Bureau of Land Management. Rule .52D provides as follows:

D. Time Limit for Draft Environmental Statement Review Comments. A period of no less than 45 days must be established for comment. Upon request in writing to the responsible official (See .04), extension of the time for submitting comments may be granted. Use the date of availability to CEQ, publication in the Federal Register, or distribution to the public, whichever is the latest, to establish the review period. (Note: The minimum review period is 45 days; whenever possible

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a longer review period is established.) Despite specific limits of receiving comments, the Bureau will normally address all comments received during the preparation of the PFES.

22. On or about October 26, 1978, the Department of Interior gave notice in the Federal Register, Volume 43, Page 208, that the Secretary would receive public comment until November 20, 1978 with respect to the Secretary's proposals as contained in the "Draft Environmental Supplement" which was made available to the public on or about that date.

23. The above notice gives Intervenor less than twenty-five (25) days in which to analyze and prepare and submit public comment upon the series of proposals made by the Department of Interior. This truncated public comment period with respect to a major Federal action which will affect the human environment of Alaska residents and which involves more than 99.4 million acres of Alaska's public land, some of which might otherwise be available for State selection, is in direct violation of the regulations promulgated by the Bureau of Land Management and approved by the Department of Interior with respect to the preparation of environmental impact statements. Furthermore, the shortened period of public comment violates the principles of the Guidelines of the President's Council on Environmental Quality which also recommends a forty-five (45) day comment period, 40 C.F.R. §§ 1500.7 and 1500.9(f) (1978).

24. The shortened period for public comment will frustrate and materially interfere with Intervenor's efforts to protect their and the State's interests in exercising the State's land selection rights. It further will impede the Intervenor's ability to determine which selections are adversely affected and to determine what action to take to protect those selections.

25. Neither the Steering Council nor Alaska residents individually can adequately analyze, review, and comment on the complex proposals offered by the Department of Interior within the twenty-five (25) days provided. Among other reasons, geographical, climatic, temporal, and population conditions in Alaska make it more difficult, if not impossible as a practical matter, to gather and assess public opinion in such a short time. The twenty-five (25) days offered by the Department of Interior through the Secretary is insufficient.

WHEREFORE, Intervenor hereby respectfully request that this Court grant the following relief:

- a) That this Court find that the requirements for public review, analysis and comment as required by the National Environmental Policy Act and the regulations and policies promulgated thereunder have been, and will continue to be, violated by defendants;
- b) That this Court enter an order enjoining the

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President from finally deciding upon any course of action and from making any promulgations or issuing any order affecting Alaska pursuant to any otherwise lawful authority vested in him by the Antiquities Act, until compliance with the requirements of the National Environmental Policy Act and regulations and policies promulgated thereunder has occurred to the satisfaction of the Court;

- c) That this Court enter an order enjoining the Secretary and the Department, or either of them, from finally deciding upon any course of action, issuing any order, or making any withdrawal of lands affecting Alaska under ANCSA, the Federal Land Policy and Management Act, or the Antiquities Act, or any of them, until compliance with the requirements of the National Environmental Policy Act and regulations and policies promulgated thereunder has occurred to the satisfaction of the Court;
- d) That this Court enter such additional orders as it may deem necessary to afford Intervenor's complete relief from Defendants' actions.

VI

THIRD CAUSE OF ACTION

26. Intervenor's reallege and reincorporate herein by reference each and every legal assertion and statement of fact set forth in Paragraphs one (1) through twenty-five (25)

of this Complaint.

27. Intervenor has incurred certain costs and fees in the filing of this action.

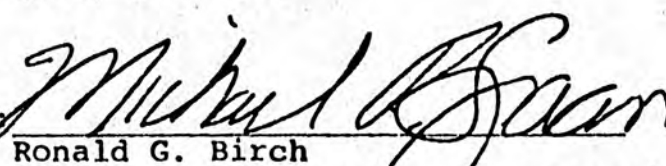
WHEREFORE, Intervenor prays as to their Third Cause of Action that this Court enter an Order awarding them costs and fees against Defendants, and each of them.

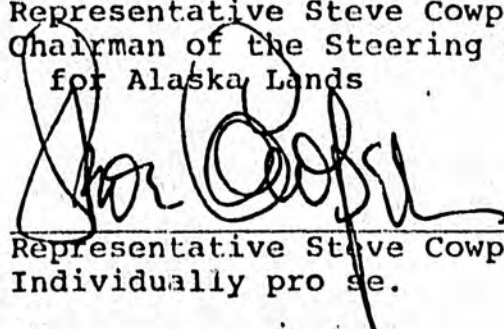
DATED this 9th day of November, 1978, at Anchorage, Alaska.

Respectfully submitted,

BIRCH, HORTON, BITTNER & MONROE
733 West Fourth Avenue
Suite 206
Anchorage, Alaska 99501
(907) 279-9403

By

For

Ronald G. Birch
Attorneys for the Steering Council
For Alaska Lands
and
Representative Steve Cowper,
Chairman of the Steering Council
for Alaska Lands


Representative Steve Cowper,
Individually pro se.

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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:

*Pursuant to Rule 25(d)(2) of the Federal Rules of Civil Procedure, add Cecil D. Andrus, in his official capacity, (5USC Sections 701-706).

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1. The Steering Council for Alaska Lands, hereinafter referred to as Council, was established by statute duly enacted, effective May 21, 1977, Ch. 47, SLA 1977.

2. The composition of the Council is the following:

Senator Mike Colletta

Senator Joe Orsini

Senator Chancy Croft

Representative Steve Cowper

Representative Alvin Osterback

Representative Joe Hayes

Robert LeResche, Commissioner of the State

Department of Natural Resources

Walter Parker, State Cochairman, Joint Federal-

State Land Use Planning Commission

Carl Jack, representing Alaska Natives

C.C. Hawley of the Alaska Miners Association

David Cline of the Audubon Society.

3. The statutorily mandated duties of the Council are as follows:

a. Ensure the full recognition of the land selection rights of the State of Alaska;

b. Assure that Alaska natives are provided an economic base in their lands;

c. Ensure that Alaska's needs and future requirements are made known to Congress;

d. Provide a forum for Alaskans to develop recommendations to protect Alaska's present and future needs;

e. Direct research into various matters pertaining to the State's land selection rights including, but not limited to, the use of selected land by the State of Alaska;

f. Make recommendations to the Governor and the Legislative Council for further action to assert the rights of the State to select land;

g. Work with the Alaska Congressional delegation to develop recommendations for appropriate State legislation;

h. Formulate and implement policies on behalf of the State with regard to Sections 17(d)(1) and (2) of the Alaska Native Claims Settlement Act, 43 U.S.C. §§1616(d)(1) and (2) (1970), hereinafter referred to as ANSCA.

4. The Council was established by the Legislature of the State of Alaska and commanded to perform these duties under and pursuant to the Legislature's exercise of its powers granted by Articles II and VIII of the Alaska Constitution, and particularly Article VIII, §§ 2, 5 and 6, which confer the following explicit constitutional responsibilities upon the Legislature, apart from and in addition to its general Article II law making authority:

a. The Legislature shall provide for the utilization, development, and conservation of all natural resources, including land, for the maximum benefit of the people of Alaska;

b. The Legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands; and .

c. The Legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

5. The Council and its Chairman appear here as the legislatively created vehicle for the exercise and implementation of the aforesaid constitutional responsibilities.

6. The Council and its Chairman have interests relating to the matters which are the subject of the instant action. These interests include:

a. The exercise and implementation of the Legislature's constitutionally mandated duties with regard to land and natural resources in Alaska, particularly including the selection of lands granted to the State by the United States, as contained in Article VIII of the Alaska Constitution and as set forth above in paragraph four (4);

b. The protection and preservation of the prerogatives of the Legislature emanating from Article II of the Alaska Constitution;

c. The preservation and protection of the Council's autonomous policy making and implementing function as set forth in the Council's enabling statute and referred to above;

d. The preservation and protection of the Council's statutorily mandated responsibility to assure that Alaska Natives are provided an economic base in their land;

e. The preservation and protection of the Council's statutorily mandated responsibility to gather critical information from and provide it to all persons and elements involved in the matters arising out of Sections 17(d)(1) and (2) of ANCSA, generically known as the (d)(2) land issue;

f. The preservation and protection of the Council's statutorily mandated responsibility to ensure the full recognition of State land selection rights on behalf of the Legislature;

g. The preservation and protection of the Council's statutorily mandated responsibility to make recommendations for action on (d)(2) and State land selection issues on behalf of the Legislature to the Governor, the Legislative Council, and the Alaska congressional delegation;

h. The preservation and protection of its statutorily mandated responsibility to serve as a forum for Alaskans to develop recommendations to protect Alaska's present and future needs;

i. The preservation and protection of the Council's statutorily mandated responsibility as an investigatory arm of the Legislature in the matters of (d)(2) lands and State land selection rights; and

j. The preservation and protection of the Council's constitutionally and statutorily mandated responsibility to function in these areas independently of the Executive Branch of the State Government.

7. The Steering Council and its Chairman are so situated that resolution of this action without their presence

as parties as a practical matter will impair and impede their ability to protect their interests as set forth above for the following reasons, among others:

a. The Complaint seeks final determination of all material and significant issues regarding the actions of the President and the Secretary of the Interior, leaving none, to the knowledge of the Council, for resolution subsequently;

b. A decision in this litigation effectively will be binding in all subsequent litigation, as it will be the initial and seminal decision on the issues raised directly and indirectly in the Complaint;

c. The issues presented involve substantial and complex questions of statutory and constitutional law of first impression which will have obvious direct and manifold indirect consequences for the applicants;

d. The applicants by virtue of the constitutional and statutory provisions set forth above are, and will continue to be, significant, interested, and integral parties in the matters of (d)(2) and other public lands and state selection rights, of which matters this litigation is a critical and sizeable element and upon which it will be of great effect.

8. The applicants, given the particular and unique constitutional and statutory duties, will not be adequately represented by any other party to the litigation, particularly due to the distinct and potentially adverse interests, responsibilities, and authority of the Council on the one hand and the State as represented by the Executive on the other.

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9. This motion is timely filed, as the Complaint was filed recently and the litigation is still in the pleading stage.

10. This motion, and the requested intervention by the Council and its Chairman, will not unduly delay the litigation or prejudice the litigation rights of existing parties.

11. This motion, and the requested intervention by the Council and its Chairman, will not unduly and fruitlessly complicate the litigation, as the essential claims underlying the Council's challenge to the action of the Defendants are substantially the same as those of the State and involve common and substantially identical questions of law and fact. Allowance of this application for intervention will avoid otherwise needless duplicate litigation.

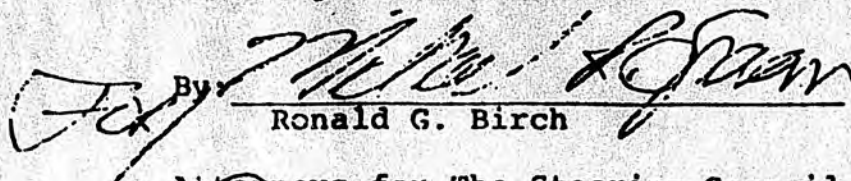
12. The applicants for intervention herein request oral argument on this motion.

WHEREFORE, for the foregoing reasons, applicants Council and Cowper respectfully pray that this Honorable Court grant them leave to intervene in the instant lawsuit as of right or, in the alternative, permissively, pursuant to Rule 24 of the Federal Rules of Civil Procedure.

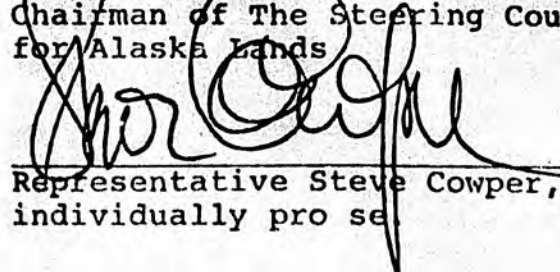
DATED this 9th day of November, 1978, at Anchorage, Alaska.

Respectfully submitted,

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By 
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Chairman of The Steering Council
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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.

JAMES EARL CARTER, President
of the United States, in his
individual capacity;
CECIL D. ANDRUS, Secretary
of the Interior, in his
individual capacity;
UNITED STATES DEPARTMENT OF
THE INTERIOR, *

Defendants.

A 78-291 Civil

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO INTERVENE
AS PLAINTIFFS

By this motion, The Steering Council for Alaska Lands, hereinafter referred to as Council,¹ and Representative Steve Cowper, individually and as Chairman of the Council, respectfully request allowance to intervene as party plaintiffs as of right under F.R. Civ. P. Rule 24(a), 28 U.S.C., or, in the alternative, to intervene permissively under F.R. Civ. P. Rule 24(b), 28 U.S.C.

1. All references to the Council should be read, where appropriate, to include its Chairman.

*Pursuant to Rule 25(D)(2) of the Federal Rules of Civil Procedure, add Cecil D. Andrus, in his official capacity, (50 USC Sections 701-706).

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Rule 24(a) directs intervention of a person as of right upon the sufficient showing of two requisites:

1. The applicant claims an interest relating to the matters which are the subject of the action; and

2. The applicant is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest,

unless the applicant's interest is adequately represented by existing parties. Under the rule as now constituted, it is the applicant's burden to make a sufficient showing on the two requisites. It generally is held that, at most, the applicant need raise only the possibility of inadequacy of representation, as the rule now places the burden of persuasion upon the party opposing intervention to establish the adequacy of its, or other, representation. See generally United States v. Reserve Mining Co., 56 F.R.D. 408, 412-15 (D. Minn. 1972).

I. The Council Has the Express and Implied Constitutional and Statutory Responsibility To Protect the State Public Domain.

The Council was established by the Legislature of the State of Alaska, pursuant to statute duly enacted, Ch. 47, SLA 1977, for the general purpose of establishing and implementing policy on behalf of its parent the Legislature and the State with regard to the commingled matters of the grants to and selections by the State of Alaska of lands pursuant to

Public Law 85-508, the Alaska Statehood Act, and the reservation and classification of federal lands in Alaska pursuant to Sections 17(d)(1) and (2) of the Alaska Native Claims Settlement Act, 43 U.S.C. §§1616(d)(1) and (2) (1970), hereinafter referred to as ANCSA. Specifically, the literal duties of the Council as set forth in its enabling statute are as follows:

Sec. 3. DUTIES. (a) The steering council shall develop a unified lobbying and informational effort to insure that the land selection rights of the State of Alaska are fully recognized, that Alaska Natives are provided an economic base in their land, and that Alaska's needs and future requirements are made known to Congress.

(b) The steering council is to provide a forum for Alaskans to develop recommendations to protect Alaska's present and future needs.

(c) The steering council shall review the status of state land selection rights by directing research into the following areas:

(1) the Alaska Statehood Act and relevant judicial decisions;

(2) Bureau of Land Management processing of state land selections;

(3) legal status of land "tentatively approved" for state selection and the effects of the failure of the federal government to act in a timely manner on these selections;

(4) any other factors limiting satisfaction of the state's full land entitlement as intended by the Alaska Statehood Act;

(5) the effect of various proposals under the consideration of the United States Congress pursuant to section 17(d)(2) of the Alaska Native Claims Settlement Act on the state land selection process and on the use of selected land by the State of Alaska.

(d) The steering council may, based upon the results of its review under (c) of this section,

(1) make recommendations to the governor and the Legislative Council for further action, including but not limited to legal action, to assert the rights of the state to select land as provided in the Alaska Statehood Act;

(2) work with the Alaska congressional delegation to develop recommendations to the governor and the Legislative Council for appropriate state legislation relating to congressional decisions under section 17(d)(2) of the Alaska Native Claims Settlement Act.

The authority pursuant to which the Legislature established the Council is found in two distinct constitutional grants. Article II of the Alaska Constitution confers upon the Legislature plenary legislative power, with all implicit and incidental authority traditionally accorded legislatures under the theory of separation of powers and the guaranty of a republican form of government.

More importantly for purposes of this motion, however, Article VIII of the Alaska Constitution, particularly Sections 2, 5, and 6, invests the Legislature with the autonomous, self-executing, exhaustive authority over natural resources, in this case particularly lands and state selections under ANCSA and the Statehood Act, in addition to and apart from the Article II powers. Article VIII reads, in pertinent part, as follows:

Section 2. General Authority. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land ... for the maximum benefit of its people.

Section 5. Facilities and Improvements. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands

Section 6. State Public Domain. ... The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

Thus the clear constitutional authority, all inclusive and comprehensive on its face, to oversee and protect the land in Alaska is reposed categorically in the Legislature. The means available to the Legislature for the execution of this authority are, again on the face of this provision, limitless, except of course for those constitutional restraints imposed generally.

The Legislature has chosen the constitutionally permissible means of effecting its Article VIII powers via creation of the Council.² That Article VIII is the fount of the Council's

2. So long as the means chosen by the Legislature is within the broad constitutional limitations, the Legislature is free to devise methods of performing its functions; and so long as the means chosen by the Council does not transgress constitutional and statutory constraints, it too, as a creation of the Legislature and as a creature of statute, is permitted to fashion its own mode of effectuating its authority. See *DeArmond v. Alaska State Development Corp.*, 376 P. 2d 717, 724-25 (Alaska 1962); *In re Permian Basin Area Rate Cases*, 390 U.S. 747, 767 (1968). That being the case, the act of the Legislature creating the Council and the performance of the Council, including its presence here, are allowable, absent "compelling evidence of legislative intent to the contrary." *In re Permian Basin Area Rate Cases*, 390 U.S. at 780.

Furthermore, in any consideration of this matter, this Court is not limited to the mere words of the statute or what is declared expressly therein; that which is "incidentally necessary to full exposition of legislative intent should be upheld as germane to the law", as every grant of power carries with it the use of the "necessary and lawful means of its effective execution." *Morrow v. Clayton*, 326 F.2d 36, 44 (10th Cir. 1963). See also, e.g., *Stahlman v. FCC*, 75 U.S. App. D.C. 176, 126 F. 2d 124 (1942).

substantive authority becomes unmistakable upon a look at the Council's enabling act. That act, in its exposition of the Council's duties, refers numerously to the State's land selection rights, the use of selected lands and (d) (2) lands. See, e.g., Ch. 47, SLA 1977, §§3(a), (c) (1), (c) (3), (c) (5), (d) (1), and (d) (2).

Moreover, from the functions delegated to and imposed upon the Council, it is clear that its purposes are not merely to assist the Legislature in the law making process empowered by Article II. Rather, its duties extend into areas, among others, of lobbying, research, litigation, and advising the Governor. See, e.g., id. §§3(a), (c), (d) (1), and (d) (2). As a practical matter, the Council's duties extend, and have extended, beyond the literal litany of its enabling statute. In order to function as mandated, the Council necessarily must decide and implement policy, as to all germane issues which arise, with regard to substance, strategy, and procedure, which policy decisions it makes solely and finally. Thus its role in the matters of (d) (2) lands and state selections has been pervasive and comprehensive and of its nature must be such, given the multitude of persons, forums, and issues involved.

- A. The Interests Deriving from the Council's Constitutional and Statutory Responsibility to Protect the State Public Domain Support Intervention as of Right.

The interests of the Council in this litigation, in the exercise of its statutorily imposed responsibilities, are manifold and will be discussed in detail below; but it

should be noted at the outset that the land (with the attendant legal questions) directly at issue in this litigation is precisely the same land categorically referred to in the constitutional grant of authority to the Legislature in Article VIII and in the successive statutory grant of authority to the Council in Ch. 47, SLA 1977. Clearly and unassailably, the property and the actions by the federal government, as set forth in the Complaint, are the very ones in which the Legislature and the Council have a direct and vital interest. This confluence of concerns, clear on its face, should be sufficient of itself to mandate intervention as a right. See Atlantis Development Corp. v. United States, 379 F. 2d 818, 819 (5th Cir. 1967).

The Council submits, however, that even were the poignancy of its interests in this litigation not so readily apparent, its particular interests emanating from its constitutional and statutory mandates support its plea for intervention as of right. The Legislature, as stated above, is distinctly, mandatorily, and solely charged, apart from and in addition to its general legislative authority, with a particular constitutional responsibility, without limitation as to means, to provide for the utilization, development, and conservation of all of the State's land and to provide for the selection of lands granted to the State under the Statehood Act. This responsibility, and the interests which it creates, are constitutionally the Legislature's. It has, in the exercise of this authority, created the Council as the

functional vehicle for the effectuation of its constitutional powers.³ As such, the Council has an interest "in the maintenance of its statutory authority and the performance of its public duties", as more explicitly set forth in the motion, in this area. SEC v. United States Realty & Improvement Co., 310 U.S. 434, 460 (1940). See United States v. American Telephone and Telegraph Co., 379 U.S. App. D.C. 198, 205, 551 F. 2d 384, 391 (1976); Hines v. D'Artois, 531 F. 2d 726, 738 (5th Cir. 1976); Nuesse v. Camp, 128 U.S. App. D.C. 172, 178, 385 F. 2d 694, 700 (1967).

The Council respectfully submits that the individual interests delineated in paragraph six of its Motion to Intervene, individually and collectively, compel the allowance of its intervention of right to protect and preserve its constitutional and statutory responsibilities.⁴

3. The Council is, in effect, a designee of the Legislature for the exercise of policy making and implementation in the (d)(2) lands areas. See United States v. American Telephone and Telegraph Co., 379 U.S. App. D.C. 198, 205, 551 F. 2d 384, 391 (1976).

4. As reported in the October 25, 1978 Anchorage Daily News, the land which is the subject of the Secretary of Interior's "environmental supplement" comprises 18 million acres selected by the Native pursuant to ANCSA and nearly four million acres selected by the State pursuant to the Alaska Statehood Act. Moreover, the subject land encompasses approximately 25 percent of the total significant mineral resource land in Alaska and 5 percent of the significant agricultural areas. Also, as reported, over half of the State's approximately 60,000 bush residents directly or indirectly derive a portion of their food from within the subject land. Thus the area of responsibility of the Council and its concerns expressed in this application for intervention are active, real, direct, and imminent.

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- B. The Council is So Situated That Any Resolution of This Matter Will Impair and Impede its Ability To Protect Its Constitutional and Statutory Interests.

It is imperative to the fulfillment of the Council's duties, particularly as it is the means chosen by the Legislature for the exercise of the Legislature's Article VIII authority, that the intervention sought be allowed. That is, the Council is so situated that resolution of this action without its presence as a full party will impair and impede, as a practical matter, its ability to protect its interest.⁵

5. It is of no account for purposes of considering this request for intervention that the Council is a public body and this suit already is brought in the name of a public body. First and foremost, as stated initially above, the broad and primary interest is in the land and impending actions over which this suit was filed. The heart of the litigation and the heart of the interests of the Council, identical in substantial part for sure, raise and effect various aspects and segments of the public interest. Where intervention is to maximize the protection of this public interest, and particularly where the applicant for intervention has discernible individual concerns, intervention as a right should be granted. See *Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 135-36 (1967); *Textile Workers Union v. The Allendale Co.*, 96 U.S. App. D.C. 401, 404, 226 F. 2d 765, 768 (1955), cert. denied, 351 U.S. 909 (1956). This is particularly so where the expressed concerns impact policies, actions, and authority of multiple bodies. See *Nuesse v. Camp*, supra, 128 U.S. App. D.C. at 178, 385 F. 2d at 700.

Article VIII of the Alaska Constitution grants the Legislature the unfettered authority as set forth above. Within the limits of this constitutional expression, the means chosen and the ends sought are solely within the discretion of the Legislature. On the face of it, no one other than the Legislature itself, or its duly authorized designee, can define, defend, or effect those interests without encroaching upon, or indeed transgressing, the constitutional grant of authority. /

Practically speaking, it is clear on the face of the lawsuit that the Council's interests will be severely affected by this litigation. The Complaint seeks resolution of all issues regarding Federal-State relations in the area of State selections and (d)(2) lands. To the knowledge of the Council, no significant or material matters would be left for subsequent determination de novo after the conclusion of this lawsuit.

Additionally, as a practical matter, any decision in this litigation will be binding on any subsequent litigation as it will be the initial and seminal decision in complex and hitherto unexplored areas of constitutional law, statutory interpretation, Federal-State relationships, and public land law. Thus, this suit is, at this point, the critical forum for the exposition and protection of the interests at stake. Its importance cannot be underestimated, and the "intellectually straight forward, realistic view" of this necessitates applicants presence. Atlantis Development Corp. v. United States, supra, 379 F. 2d at 829.

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Moreover, the Council is best prepared to represent its interests. By virtue of its statutory duties, it has been intensively involved in the matter of (d)(2) lands and State selection rights since its inception. It has, in the course of prodigious work in this area, accumulated information and insight of unique kind and dimension. Because of this, it probably more than any other possible party adverse to the defendants is in a position to assist in, if not provide for, the fullest exploration of the facts and issues set forth in and underlying the Complaint. In this sense, not only is it singularly able to express and protect its interest, it is uniquely prepared to assist the Court and the other parties on the matters at issue. At the very least, its informational function is an invaluable one and its inclusion as a full party plaintiff in this lawsuit well might be the wisest and fairest way to proceed. See, e.g., United States v. Reserve Mining Co., supra, 56 F.R.D. at 415-16; Bass v. Richardson, 338 F. Supp. 478, 492 (S.D.N.Y. 1971).

C. The Separate and Unique Interests of the Council in This Litigation Raise the Possibility of Inadequate Representation if the Council is Not a Party.

The issue of the absence of adequate representation of the Council's interests without its presense is one inextricably intertwined with the discernment of its interests vis-a-vis those of the other parties and the explication of the possible effects, absent its presence, upon its interests. However, there is one difference. The Council need only make a bare

showing of the possibility of the inadequacy of the representation for it to meet its burden on this point. Thereafter, the burden of persuasion on the issue of the adequacy of the existing parties to represent the interests of the applicant shifts to those opposing the application. The Council need not show positively that the representation of its interests by the State will be inadequate; it is enough for intervention as of right if it shows that representation by existing parties might be inadequate. See, e.g., United States v. Reserve Mining Co., supra, 56 F.R.D. at 414. So long as the effect on the asserted interests, be that effect direct or indirect, might be diverse as between the existing parties or, even though similar, of a different nature, the measure of inadequate representation has been met. Id. at 415. See also Nuesse v. Camp, supra, 128 U.S. App. at 181-82, 385 F. 2d at 703-04. Cf. Cascade National Gas Corp. v. El Paso Natural Gas Co., supra, 386 U.S. at 135.

The Council's interests for purposes of intervention can be different from without being adverse to those of the existing parties, Nuesse v. Camp, supra, 128 U.S. App. D.C. at 181, 385 F. 2d at 703. The Council's and the Legislature's constitutional and statutory status places them in a position, that of protecting their constitutional and legislative prerogatives, which cannot be adequately advanced or defended by a branch of the State government with a dissimilar mandate and responsibility. Further, given the Executive's discretion and authority, the Council especially cannot be guaranteed adequate protection for its interests given the myriad possible forms and degrees of relief which might emerge from

this lawsuit. Any resolution which infringes, yet alone preempts or forecloses, a full exercise by the Legislature and the Council of their constitutional and statutory responsibilities, if representation of the Council's interests were left to the Executive, would be an unnecessary and possibly improper limitation upon that constitutional and statutory authority and also might be an impermissible infringement by the Executive upon the constitutional division of responsibility between the Executive and the Legislature.

In short, given the interest of the Council, its ancestral autonomous constitutional footing, and the insight and information it uniquely has accumulated in its intense involvement in the (d) (2) issue to date pursuant to its statutory authorization, it goes almost without saying that no one but it can represent its unique cause adequately.⁶

6. It appears that the defendants would have ground to support this intervention request. The contest, if any, over the interests, situation, and representation of the Council is a matter of State constitutional law and State separation of powers. The defendants, under Article IV, §4 of the United States Constitution, are obligated to guarantee Alaska a republican form of government in the presence of a tendency to consolidate governmental functions in a single branch. Should the present plaintiff object to the application for intervention, and thereby seek to arrogate to itself some of the Legislature's constitutional authority, it might be the defendants' Article IV obligation to come to the aid of this application. See generally The Federalist No. 43 (J. Madison); *Minor v. Happersett*, 21 Wall. 162, 175, 22 L.Ed. 627, 631 (1875).

II. Intervention Will Not Unduly Delay or Complicate This Lawsuit and Will Avoid Multiple Litigation.

Finally, it should be noted that the entrance of the Council as a party plaintiff at this point, given the timeliness of its application and the similarity of its claims to those in existence, will not be burdensome, will obviate multiple litigation, and for the reasons set forth above most likely will be fruitful and beneficial to the consideration of the issues at hand.

III. Conclusion.

Thus, for the foregoing reasons, the applicants respectfully request that they be granted intervention as of right pursuant to F.R. Civ. P. Rule 24(a).

For the reasons set forth above, and because of the clear commonality and similarity of the issues raised and questions presented in applicants' Complaint to those in the State's Complaint, the applicants respectfully request that, in the alternative, should this Court not grant them intervention as of right, they be permitted to intervene as full parties as a matter of the Court's discretion pursuant to F.R. Civ. P. Rule 24(b).

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

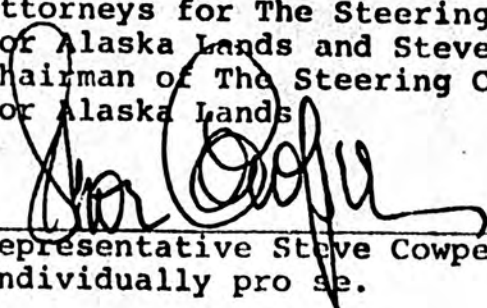
Respectfully submitted,

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By: *For* 

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Chairman of The Steering Council
for Alaska Lands


Representative Steve Cowper,
individually pro se.

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July 7, 1978

• ADMITTED IN D. C.

Michael Harvey, Esq.
 Chief Counsel
 Committee on Energy and
 Natural Resources
 U.S. Senate
 Washington, D. C. 20510

Dear Mike:

We have prepared the attached two-page summary of the Steering Council for Alaska Lands' positions on d-2, per your request at our June 29, 1978 meeting. It is organized along the lines of the "issue priority schedule" that your Committee has set up for dealing with the Alaska Lands Legislation.

Both Senator Mike Colletta and I appreciated the time you spent with us, as well as your candor. We will continue to work with you and the Committee toward enactment of balanced legislation.

I have included several extra copies of the summary in the event that you may need them.

Cordially,

BIRCH, HORTON, BITTNER & MONROE


 Joseph M. Chomski

JMC/cjh
 Enclosures

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July 7, 1978

Summary
of
d-2 Policy Positions
contained in
Working Draft Bill

I. STATE AND NATIVE SELECTIONS

The State of Alaska should be allowed to select its entire 104 million acre entitlement before d-2 withdrawals are made; the Native Selection provisions of H.R. 39 are satisfactory;

II. OIL AND GAS MANAGEMENT

The Arctic Range should be open to a joint federal-private industry study for oil and gas deposits, as well as a Federal-State study of wildlife and ecological values; all new National Wildlife Refuges should be subject to an expedited oil and gas exploration program; oil and gas assessments shall continue throughout all public lands in Alaska;

III. HARDROCK MINERALS

Valid existing rights must be honored, including access to such claims even if through wilderness areas; existing law shall apply to National Wildlife Refuges, Park Preserves, and Forests; Federal mineral assessment shall continue on all public lands;

IV. TRANSPORTATION ACCESS

Existing law is retained for nonwilderness areas; transportation and utility corridors access across wilderness and wilderness study areas must be provided in a workable fashion, not involving Congressional approval;

July 7, 1978

V. SUBSISTENCE/SPORT HUNTING/COMMERCIAL HUNTING

The Title adopted by the House of Representatives is satisfactory as long as the native community continues to support it and certain problems recently raised by the State of Alaska are ironed out;

VI. WILDERNESS

The Steering Council strongly opposes instant wilderness and proposes that 11 million acres be added to the Wilderness Preservation System in Alaska, all of which have already been studied; the Council also believes that wilderness study areas should be chosen selectively;

VII. COOPERATIVE MANAGEMENT AND OTHER SYSTEMS

The Steering Council urges the Senate to apply the management system adopted in the California Desert Conservation Act to a substantial portion of Alaskan lands; that system was created for fragile ecosystems threatened by the incursion of man, exactly the circumstance facing Alaska's ecosystems; this approach would allow intense management by the Interior Department without precluding multiple use possibilities; the Steering Council also supports the concept of cooperative management and urges passage of the Bristol Bay Cooperative Management Region as included in the House bill;

VIII. ANCSA AMENDMENTS

Section 22(e) should be deleted; native corporations and villages should be given acreage compensation where native selected lands are declared navigable water and therefore under Federal control;

IX. BOUNDARIES

The Steering Council supports the general boundary designations proposed by the Federal-State Land Use Planning Commission, with certain limited amendments recently forwarded by the State of Alaska; the Council proposes approximately 50 million acres of d-2 conservation system unit withdrawals, and approximately 45 million acres of land to be managed by Interior under the California Desert Act management principles;

X. ALASKA LANDS ADVISORY COMMISSION

This Federal-State advisory commission would be created to exist for 10 years and to provide expertise regarding management of the Alaska's conservation system lands, lands adjacent to these areas, and would make recommendations for future cooperative management regions in Alaska;

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

ALASKA D-2 STEERING COUNCIL

Adopted Amendments
and
Policy Positions

November 22, 1977

WILDLIFE MANAGEMENT

1
2 Sec. 4304. The taking of fish and game on all lands
3 subject to this Act shall be regulated by the State of Alaska
4 in accordance with applicable State law, including, but not
5 limited to, the regulation of seasons, bag limits, means and
6 methods, the administrative structure for wildlife manage-
7 ment and regulations, the determination of resource deple-
8 tion, and the definition of subsistence use and local residency.
9 Where there is a conflict caused by depletion, the taking of
10 fish and game for subsistence purposes shall be given prefer-
11 ence over the taking of fish and game for other purposes.
12 Such preference shall be granted to the local residents of the
13 area affected by a conflict between consumptive uses.
14 Nothing in this section shall be construed to require that
15 hunting or fishing be permitted where depletion of the re-
16 source would dictate a complete prohibition of such activities.

Interior National Forest

AMENDMENT

An amendment to H.R. 39 (Committee Print #1, 10/17/77) to establish a Yukon-Porcupine National Forest:

Page 40:

ADD a new section 401 (renumber subsequent sections accordingly) to read:

YUKON-PORCUPINE NATIONAL FOREST

Sec. 401. (a) The following area is hereby established as a unit of the National Forest System and shall, subject to valid existing rights, be administered by the Secretary of Agriculture pursuant to the provisions of law governing the administration of such units and under the provisions of this Act: Yukon-Porcupine National Forest, of approximately ten million three hundred thousand acres of public lands, as generally depicted on a map entitled "Yukon-Porcupine National Forest", dated _____, 1977, which shall be managed to maintain multiple values and for the following purposes: to provide opportunity for commercial harvest of timber; to provide opportunity for agricultural enterprise,

including but not limited to cultivation and grazing; to assure continued viability of subsistence resources for continued subsistence uses; and to protect and perpetuate internationally significant waterfowl and other migratory bird resources that utilize the lands and waters of the Yukon Flats.

DELETE: pp. 33, 34 -- Sec. 301(10)

pp. 65, 66 -- Sec. 602(17)

MINERALS

STEERING COUNCIL POLICY POSITION SUBJECT: USGS AND BUREAU OF MINES MINERAL POTENTIAL MAPS AND DATA

The U.S. Geological Survey is scheduled to release its most current Alaska mineral potential maps -- known as its "Level II" survey -- in January. The United States Bureau of Mines has recently completed its information-gathering and drafting of its most current mineral potential data covering Alaska.

It is imperative that the Alaska Lands Subcommittee of the House Interior Committee have before it this most current data before making decisions on acreage withdrawals and mineral exploration, extraction, and access. Therefore, the Steering Council implores the Subcommittee to consider the USGS Level II maps before making decisions in mark-up regarding withdrawals, minerals, and access. Furthermore, the Steering Council requests that the Subcommittee take all steps necessary to acquire and consider Alaska mineral potential data currently in the possession of the U.S. Bureau of Mines before marking-up the d-2 proposals before it.

The Steering Council believes the decision effecting exploration and extraction of critical and strategic Alaskan minerals are of great national importance. Any conclusive actions taken without the benefit of current and readily available data must be considered hasty, ill-conceived and not in the best interest of our nation.

RESOLUTION

Subject: Mark-Up Vehicle

Move that: The D-2 Steering Council hold that H.R. 39 as represented in the Committee Print of October 28 and as slated for mark-up by the subcommittee has areas which are not in the best interests of Alaska and that we urge the subcommittee to generally amend the mark-up vehicle by substituting elements which will be closer in philosophy to that developed in §1787.

CONGRESSIONAL REVIEW AMENDMENT

As presently constituted, H.R. 39 over-emphasizes the use of Congress as a final arbiter in Alaska land use decisions and under-emphasizes the administrative process. Clearly, it is sometimes appropriate to have Congress oversee major federal administrative actions. It is not, however, appropriate for Congress to review and approve each and every land use decision covering federal lands in Alaska.

The Steering Council therefore adopts the policy that congressional review of Alaska land decisions made via the administrative process as described in the D-2 Act and the Administrative Procedures Act, be excluded or at least limited to "major" administrative decisions and that "major" be defined in a restricted manner.

**AMENDMENTS TO ALASKA
NATIVE CLAIMS SETTLEMENT ACT**

It is suggested that the Council propose an amendment which would repeal Section 22(E) of the Alaska Native Claims Settlement Act. Section 22(E) currently provides:

§22(E) If land within the national wildlife refuge system is selected by village corporation pursuant to provisions of this Act Secretary shall add to the refuge system other public land in the state to replace land selected by the village corporation.

What the council would be saying here is that it holds the view that enough land will be classified into parks and wildlife refuges on any of the pending D-2 bills and that this clause is just now unnecessary.

"ACCESS" IN HOLDINGS AMENDMENT

Every proposal protects prior existing rights although certain requirements are placed on the holders of those claims in order to keep them. The Council's position is that reasonable access must be guaranteed. Without access there is no protection of prior existing rights.

SUBSISTENCE

Amends Andrus Proposal

Sec. 701. (a) Except as otherwise provided by Federal law the State of Alaska is authorized to permit subsistence uses of fish[,] and wildlife[, and plant] resources within designated subsistence management zones by establishing within eighteen months of the enactment of this Act, a program:

(1) Defining "subsistence uses" to include the taking and use of customary or traditional wild foods [and other renewable biological resources] from lands and waters for personal or family consumption; provided that such taking is not accomplished in a wasteful manner. Such uses may also involve the customary trade or barter [among] by qualified subsistence users for personal or family consumption, including customary barter to obtain a nominal cash supplement, and the sale of traditional native handicrafts made out of the non-edible products of resources taken for personal or family consumption pursuant to this subsection;

(2) prescribing conditions under which subsistence uses may be permitted, including but not limited to, the establishment of limits on season length, take, and number of type of fish[,] and wildlife[, or plant] species to be utilized; provided, however, that the level of subsistence uses may not be significantly expanded beyond those in existence [prior to December 18th, 1971] on the effective date of this Act.

(3) determining, without regard to race or ethnic origins, who is qualified for subsistence uses within subsistence management zones based upon the following factors which shall be weighted by the State to reflect their relative importance; customary and direct dependency upon the use of subsistence resources as the mainstay of one's livelihood; area of domicile; availability of alternative resources; and [cultural needs] the traditional lifestyle of the subsistence user;

(4) creating a system of regional and local advisors to assist in [determining who is qualified for subsistence uses within] carrying out the State's responsibilities under this section, including, to the maximum practicable extent, determining who is qualified for subsistence uses within subsistence management zones; and

(5) giving subsistence uses preference over any other competing consumptive use within subsistence management zones. When actual or [anticipated] projected population declines in a specific subsistence resource would be aggravated by continued subsistence uses or other competing consumptive uses, the State shall first curtail the other consumptive uses, and as a last resort, subsistence uses, to the extent necessary to protect the viability and wellbeing of the fish[,] and wildlife[, and plant] population affected.

(b) Within eighteen months of the enactment of this Act, t[T]he Secretaries of Interior and Agriculture, after a rule making procedure implemented pursuant to the Administration Procedure Act (5 U.S.C. 551 et seq.), shall designate by regulation subsistence management zones within their respective units added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems by this Act. Such subsistence management zones shall be designated only within those units where subsistence uses were customarily occurring on or [before] about the effective date of this Act and where continued subsistence uses would be consistent with the purposes for which the area was established

and is being managed. The appropriate Secretary, after rule making pursuant to the Administrative Procedure Act, shall [is authorized to] periodically revise the boundaries of subsistence management zones in order to reflect changes in fish[,] and wildlife [or plant populations] migration patterns or [subsistence] the needs of qualified subsistence users.

(c) (1) After Consultation with the State of Alaska, [T]he appropriate Secretary may close any subsistence management zone or portion thereof to subsistence uses for reasons of public safety, protection and management of the lands and habitat which support living resources, administration, or public use and enjoyment of the area; and notwithstanding any other provision of this section, if the appropriate Secretary determines that conditions imposed by the State of Alaska under subsection (a) (2) of this section [are inconsistent with the purposes for which any area was established or] constitute a danger to the population of any species, lie may close the area to subsistence uses, subject to the procedure described in the following subsection.

(c) (2) If the Secretary of Interior determines that the State has failed to comply with the requirements specified in this section, he shall first give the State a reasonable period, but not less than one hundred twenty days, to rectify the alleged deficiency. If the State refuses to make such changes, the Secretary shall initiate a hearing pursuant to the Administrative Procedure Act in order to ascertain the validity of the State's claim. Upon a finding of noncompliance by the State with the requirements specified in this section, the Secretary or the Secretary of Agriculture, as appropriate, may close any affected subsistence management zone or portion thereof to subsistence uses; provided that upon his finding that an emergency exists, the appropriate Secretary may close a subsistence management zone or portion thereof pending a hearing, which shall be convened within one hundred twenty days of the closure.

(d) (1) Except for those subsistence uses authorized in titles _____, _____, and _____ in this section, [a] all areas of the National Park System in the State of Alaska shall be closed to hunting and trapping, but [may] shall be open to sport fishing in accordance with the appli-

cable laws of the United States and the State of Alaska; provided, however, the Secretary shall permit fishing, trapping, and [non-commercial] sport hunting within areas established by this Act as "national preserves" and national rivers' in accordance with the applicable laws of the United States and the State of Alaska; provided further, that nothing in this subsection shall be construed as limiting the authority of the State of Alaska to manage and regulate fish and resident wildlife within such preserves and national rivers.

(2) The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may designate for all units of the National Park System, the National Wildlife Refuge System, the National Forest System, and the Wild and Scenic Rivers System in the State of Alaska areas where, and periods when, hunting, fishing, trapping or entry may be limited or prescribed for reasons of public safety, administration, protection and management of the lands and habitat which support living resources, [preservation of subsistence resources,] or public use and enjoyment. Except in emergencies, any regulation prescribing such restrictions relating to hunting, fishing, trapping or entry shall be put into effect only after consultation with the appropriate

State agency having jurisdiction over such activities, and after a hearing pursuant to the Administrative Procedure Act at which the validity of the restrictions shall be considered. In the event that restrictions are imposed under the emergency authority granted herein, a hearing shall be held within one hundred twenty days of such imposition.

(e) Any person who violates or fails to comply with any regulation issued pursuant to subsections (c) or (d) of this section shall be fined not more than five hundred dollars or imprisoned for not to exceed six months, or both.

(f) The Secretary of Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report every two years to the president of the Senate and the Speaker of the House of Representatives on subsistence uses within designated subsistence management zones. The report shall include among other things, the status of fish and wildlife populations impacted by subsistence uses, the number of persons engaged in subsistence uses, the status of subsistence in the native cultures and in the general resident population of Alaska, the scope, nature and effectiveness of the state subsistence program, whether the state is in compliance with the standards set forth in this Act

on subsistence use, and whether there is a need for increased federal funding or legislation modifying the existing subsistence use system.

(g) Nothing in this section shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. Sections 1151 et seq.); the Endangered Species Act of 1973 (16 U.S.C. Sections 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. Sections 1361 et seq.); or the Migratory Bird Treaty Act (16 U.S.C. Sections 701 et seq.).

(h) Notwithstanding any other provision of this Act or other law, the Secretaries of Interior and Agriculture shall permit the use of snowmobiles, motorboats, and other means of transportation traditionally used for subsistence purposes within areas open to subsistence uses, subject only to such reasonable regulations as are necessary to prevent damage to terrain, to protect the values of the public lands, and to fulfill the purposes for which affected conservation system units are established or expanded by this Act. [law or any other provision of this Act to the contrary, the Secretary may permit the winter use of snow-machines for subsistence purposes.]

(i) The Secretaries of Interior and Agriculture shall take steps to ensure that subsistence users shall have access to subsistence management zones, including access by means of easements across public lands. Such access shall be subject only to such reasonable restrictions as the appropriate Secretary may determine from time to time are necessary to protect the values of the public land.

(j) Subject to the restrictions specified in this section, the Secretaries of Interior and Agriculture shall consider subsistence uses of plants in designating subsistence management zones, and said Secretaries shall seek to protect such subsistence resources in the development and implementation of management plans affecting particular subsistence management zones.

(k) (Possible Addition)

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy or dispositions (other than valid State and Native selections) of public lands in any subsistence management zone, the Secretaries of Interior and Agriculture shall evaluate the subsistence needs of the persons affected, the availability of

nonsubsistence lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the requirement for any taking of lands needed for subsistence uses. To the maximum extent practicable, said Secretaries shall take steps to ameliorate or eliminate adverse impacts resulting from such actions.

(l) Except as otherwise provided by this section and any other Federal law, the State of Alaska is authorized to manage and regulate the taking of fish and wildlife on Federal lands.

(m) If the State refuses to accept regulatory responsibility under this section, the Secretary of Interior or the Secretary of Agriculture, as appropriate, shall carry out the functions assigned to the State hereunder.

(n) Nothing in this Act shall be construed to grant a property right in fish, wildlife, or plants to any subsistence user.

(o) In order to carry out the provisions of this section, the sum of per annum is hereby authorized to be appropriated to the Secretary of the Interior for

transfer to the State of Alaska; provided, however, that
said sum is not authorized for any year in which the State
has refused to accept regulatory jurisdiction under this
section. In the event that the sums authorized in this
subsection is not appropriated for a particular fiscal year,
the requirements of this section shall no longer apply, and
the State may manage and regulate fish and resident wildlife
within subsistence management zones in accordance with other
applicable Federal and State law.

(p) International waters, territorial waters,
navigable waters, private lands, state lands, and the re-
sources therein are exempt from the subsistence provisions
of this Act.

STATE SELECTIONS

Draft
11/21/77

Sec. _____. State of Alaska Land Selections and Conveyances. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain federal lands in Alaska for community development and expansion purposes, Section 6(a) of the Act of July 7, 1958, 72 Stat. 339, hereinafter referred to as the Alaska Statehood Act, is amended in part by addition of the following provision: The State is hereby authorized a ten-year extension of the time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain federal public lands in Alaska, Section 6(b) of the Alaska Statehood Act is amended in part by addition of the following provision:

(1) The State is hereby authorized a ten-year extension of time limit originally specified in the Act, that is, until January 3, 1994 within which to fulfill its land entitlement under this subsection in its entirety.

(2) The provision regarding Presidential approval of land selections heretofore or hereafter made north and west of that line described in Section 10 of the Alaska Statehood Act is hereby repealed.

(c) The State of Alaska is hereby granted and shall be entitled to select on or before January 3, 1994 from surveyed or unsurveyed federal lands which are vacant, unappropriated and unreserved at the time of their selection, those school indemnity lands reserved to the Territory of Alaska under Section 1 of the Act of March 4, 1915, as amended by the Act of March, 1952 and the Act of August 27, 1958. Patent to the State of Alaska of indemnity land selections granted by this subsection is authorized pursuant to the provisions of 43 U.S.C. Sec. 852.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, and to conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971).

(e) All State of Alaska land selections made pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights as of the date of their selection, conveyances made pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), and tentative approval and patent pursuant to Section 6(g) of the Alaska Statehood Act.

(f) All applications for selection by the State of Alaska of Federal lands which were not, or are not, on the date of such application vacant, unappropriated, unreserved Federal lands within the meaning of Section 6 of the Alaska Statehood Act are hereby confirmed and shall be hereafter treated as valid state selections upon the subsequent revocation or other termination of any such Federal withdrawal or reservation.

(g) To insure that the State of Alaska fulfills its entitlement to Federal lands granted or confirmed by Section 6 of the Alaska Statehood Act, the State may file and maintain selection applications for lands exceeding by one hundred and twenty-five percent in total area the amount of remaining State entitlement under each such grant. The State shall list such selections in desired priority order

of conveyance. Such excess selections shall become void upon fulfillment of each such grant unless transferred by the State to any remaining unfulfilled grant, if such lands are otherwise eligible for conveyance under such remaining entitlement.

(1). The State of Alaska may, by written notification to the Secretary, relinquish any previously-filed selections of land or applications for selection prior to receipt by the State of tentative approval.

(2). Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision: All selections made by the State after January 1, 1977 shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved, and each tract selected shall contain at least one thousand two hundred and eighty acres unless isolated from other tracts open to selection or, in the case of selections under subsection (a) of this section, one hundred and sixty acres.

(3). Land selection applications heretofore or hereafter filed by the State which select all available lands within the descriptions set forth in the selection

applications shall be effective selections of all uplands and non-navigable shore and submerged lands which are in fact available at the time of selection, or which later become available prior to fulfillment of the land grants made by the Alaska Statehood Act and this Act.

(4). A charge against the State's appropriate acreage entitlement under Section 6 of the Alaska Statehood Act shall be made by the Secretary only upon issuance of patent.

(h) The United States hereby recognizes valid State of Alaska land selections of the following described Federal lands, and such lands shall be segregated from any other reservation, withdrawal or disposal under the laws of the United States:

DESCRIPTION

(i) Lands identified in subsection (h) shall be tentatively approved to the State, subject to valid rights existing as of the date of enactment of this Act. Existing federal withdrawals or reservations for public purposes, excepting the smallest practicable tract, as determined by

the Secretary of the Interior within three years after adoption of this Act, enclosing land actually used in connection with the administration of any Federal installation, shall be subject to selection to the extent that such lands lie within those areas described in subsection (h) of this section. Equitable title to the lands described in said subsection shall vest in the State of Alaska upon tentative approval of such selections, with legal title to vest upon issuance of patent to the State. Patent may be issued pending survey, or subject to competing claims of right to or interest in such lands, with the consent of the State.

**LAND USE COMMISSIONS
AND
FIFTH SYSTEMS**

1. Lands: Place designated Federal and State lands and possibly private lands under the new entity. These could include:
 - a so called fifth system Reserve lands designated by Congress out of the present (d)(2) withdrawal lands,
 - Some or all of the remaining unreserved Federal lands,
 - lands to be designated by the State,
 - lands to be designated by the private sector.

2. Authority: The entity could be granted authority;
 - only to plan and coordinate;
 - only to classify lands under its mandate;
 - to designate managers and provide management guidelines.

Amendment, Fishing, Aquaculture and Wilderness

(d) In accord with principles of ground fisheries management, the appropriate Secretary is authorized to permit fish stocking, enhancement and development activities and the development of aquaculture sites within the wilderness areas designated by this Act, as he determines to be necessary and desirable to restore, augment, or sustain native fish populations. Structures for any such aquaculture site shall involve no permanent housing for personnel or equipment and only minimal facilities essential to the aquacultural operations and shall be constructed at such locations and in such manner as to blend into the natural character of the area. In constructing such structures, no alteration to the natural contours of the terrain shall be permitted.