

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672

702 SCOMM22: ALASKA LANDS FILE 1977-78

State and Native Selections

The Steering Council proposal extends the State's time limit on land selections to January 3, 1994. Subject to valid existing rights and to conveyances made pursuant to Sections 21(a) and (b) of ANCSA, the Council proposes all tentative approvals of State land selections be satisfied and confirmed. Further, the Council would conform and treat as valid State selections all State applications for selection of Federal lands which were or are not on the date of application vacant, unappropriated, unreserved Federal lands.

The bill reported out of the Subcommittee conforms with some of the recommendations of the Steering Council. The bill grants to the State, subject to Native selection rights and valid existing rights, most lands which have been selected by the State and selections which have been tentatively approved. The Subcommittee did not feel the State needed an extension on land selections and provides a process whereby the State will receive land selections expeditiously. The reported bill still does not give the State its full Statehood entitlement. Alaska d(2) areas conflict - there appear to be about 6-10 million of high priority State selections in conflict - these lands will go into d(2) Federal areas and not go to Alaska.

Before the Subcommittee began mark-up on this title, Congressman Seiberling stated that if there was anything in the title which was not acceptable to the State or natives, then it would not be included. It can be assumed that this will be the case when this title is brought before the full Committee.

ANCSA Amendments

The Steering Council proposed deleting Section 22(e) of ANCSA which states that if a village corporation selects lands within a National Wildlife Refuge, then the Secretary shall add other public lands in the State to that refuge to replace those which the village corporation has selected.

In the recent Subcommittee Print, there is no reference to deleting this provision. On February 2, Mr. Udall proposed an amendment, which was adopted on February 3, to the substituted Title VIII, Section 805 which states:

"Any other provision of the law to the contrary notwithstanding, all lands withdrawn pursuant to Section 17(d)(1) of the Alaska Native Claims Settlement Act which are not included within the boundaries of conservation system unit and which are not selected by or conveyed to native corporations shall be added to the units within which such lands are located and shall be administered accordingly." [At this time d-1 withdrawals total approximately 103 million acres.]

The intent behind the Udall amendment is to prevent "checker boarding". According to the House Interior Committee staff, any present State d-1 land selections would be honored. From the Udall amendment it appears that the Subcommittee has acted the opposite of what the Council proposes, in that the Subcommittee provides for additional lands to be added to conservation system units; the amendment appears to strengthen Section 22(e) of ANCSA.

Subsistence

The Council's position is that the State be authorized, except where provided by Federal law on this section, to manage and regulate the taking of fish and game on Federal lands. In carrying out this responsibility, the Council proposes that within 18 months of enactment of the Act, the State establish a program to permit subsistence uses of fish and wildlife resources within designated subsistence management zones. The program shall include a definition of subsistence use, conditions under which subsistence uses may be permitted, factors for determining who is qualified for subsistence uses within zones, creation of regional and local advisors to assist the State in carrying out its responsibilities under the section, and giving subsistence uses preference over any other competing consumptive uses within zones. The Council advocates that the Secretary who has authority over a conservation system unit designate subsistence management zones within 18 months after enactment of the Act.

After consultation with the State, the appropriate Secretary may close zones or portions thereof for reasons of public safety, protection and management of the lands and habitat which support living resources, administration, or public use enjoyment of the area. If the Secretary determines that the State has failed to comply with the requirements of the section, he must give the State a reasonable period, but not less than 120 days, to correct the purported deficiency. If the State refuses to do so, then the Secretary must initiate a hearing in order to ascertain the propriety of the State's actions. If the State refuses the regulatory responsibility, then the appropriate Secretary shall carry out the functions assigned to the State.

The Council further proposes that snowmobiles, motorboats and other means of transportation traditionally used for subsistence purposes be permitted.

The Subcommittee adopted a new subsistence title which states that during an interim period of 18 months beginning on the date of enactment of the Act, the State is authorized to regulate the taking of fish and wildlife for subsistence uses on public lands. At the end of the interim period, the State will be given authority, if it so desires, to regulate

the taking of fish and game for subsistence purposes on public lands. Within 18 months after the date of enactment of the Act, the State shall submit to the Secretary a program which shall include the following: A management plan which has as its central elements the maintenance of the continued viability of the populations of fish and wildlife species and a system capable of monitoring subsistence and other consumptive uses of such species; the establishment of not less than 5 or more than 12 fish and game management regions; a State law or regulation which gives priority for subsistence uses over other consumptive uses; and a system of local and regional fish and game councils within each management region. If the Secretary finds that the State does not comply with the requirements of the section, he shall notify the State and give the State an opportunity to modify its program. The new title provides that the State, in consultation with the Secretary, natives and other interested and affected parties or determine the number and boundaries of management zones. If the State fails to accept the regulatory responsibility then the Secretary of Interior shall carry out the functions assigned to the State.

Snowmobiles, motorboats, and other means of surface transportation traditionally used shall be permitted.

To assist the State in developing and implementing the program the Federal Government shall reimburse the State up to 50% of the costs of the program.

COMPARISON

This new subsistence title is more reasonable than the one which appeared in the Committee print of October 28, 1977. The new title gives the State the authority to regulate the taking of fish and game and set up local and regional fish and game councils.

The differences between the Subcommittee and the Steering Council are minor. The Council proposes that if the State refuses regulatory responsibility then the appropriate Secretary assumes the responsibilities while the Subcommittee would give the responsibilities to the Secretary of Interior. Additionally, the Council proposes the appropriate Secretary designate subsistence management zones while the Subcommittee gives the State, after consultation, this responsibility.

There is a noteworthy problem with the Subcommittee's subsistence structure. The Subcommittee may delegate too much authority to local and regional councils as opposed to state. The bill stipulates that regional councils be assigned adequate and necessary staff to carry out their responsibilities, but if a regional council's recommendation is rejected by the State agency, the regional council has direct access to the Secretary of Interior who can overturn if the State is not in compliance with the State program or the requirements, purposes or policies of the Act.

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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, D.C. 20510

January 23, 1978

Ms. Sharon Long
 Steering Committee for Alaska Lands
 1016 West 6th Avenue, Suite B
 Anchorage, Alaska 99501

Dear Sharon:

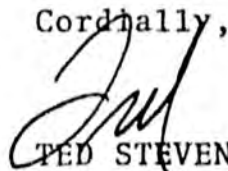
This letter will confirm my support for a State Legislative appropriation to bring Members of the Senate to Alaska this year to allow them to see some of the proposed d-2 lands. I originally suggested this last year and still think it is an idea which should be acted upon.

It is important that as many Senators and Congressmen as possible come to Alaska prior to voting on d-2 legislation. The Committee with jurisdiction over d-2 lands has the budget to authorize trips for the Members, but other Members of Congress have no way to come to Alaska. Any money spent by the State Legislature to bring Members of Congress to Alaska would be repaid in the understanding of these Members of Alaska's unique problems.

Please let me know if I can be of any further support in any efforts the Steering Committee makes to obtain Legislative funding for such a proposal.

With best wishes,

Cordially,



TED STEVENS
 United States Senator

STATE OF ALASKA

Staff Briefing Paper

A Preliminary Proposal

Pertaining To

National Interest ("D-2") Lands in Alaska

Under

The Alaska Native Claims Settlement Act

STATE OF ALASKA NATIONAL INTEREST LANDS PROPOSAL (TENTATIVE)

- NATIONAL PARK SYSTEM
- Parks
 - Preserves
 - Recreation Areas
 - NATIONAL WILDLIFE REFUGES
 - NATIONAL FORESTS
 - ALASKA RESOURCE LANDS (ARL)
 - SPECIAL STUDY AREAS
 - COOPERATIVE MANAGEMENT AREAS (COMAND)

NOTE: NO PRIVATE LANDS ARE AFFECTED BY ANY OF THESE PROPOSALS

November 12, 1971

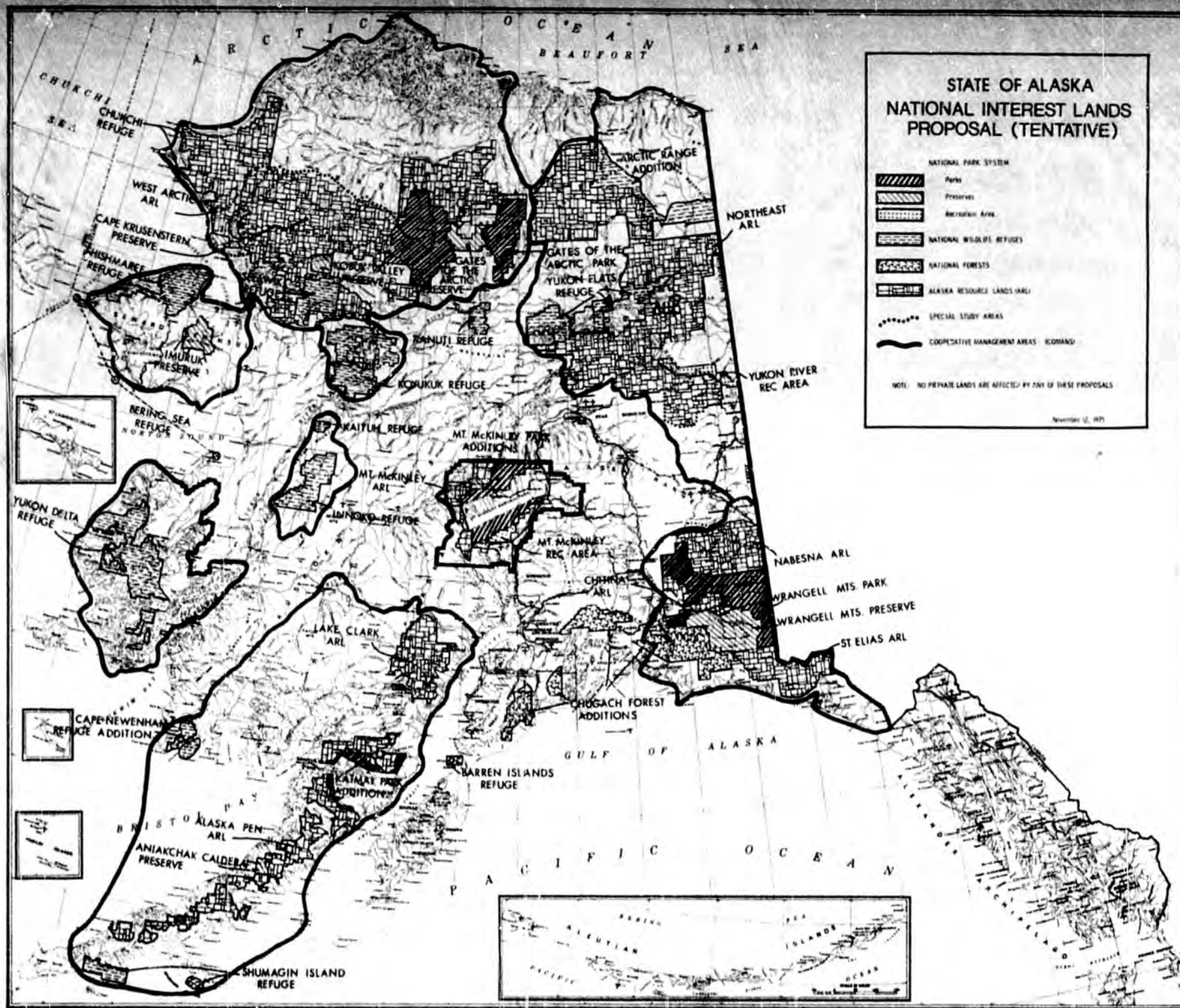


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I.

Introduction: Why a State Proposal?

On December 18, 1971, Congress passed Public Law 92-203, the Alaska Native Claims Settlement Act. The purpose of the Act was to provide a land and monetary settlement of the aboriginal title and claims based upon title of Alaska natives; however, the Act went far beyond the settlement of native claims.

Section 17(d) (2) of the Act directed the Secretary of the Department of Interior "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act . . . up to, but not to exceed, eighty million acres of unreserved public lands in the State of Alaska . . . which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers System. . ."

The Act then directed the Secretary to submit his recommendations to Congress with respect to these lands. The Secretary complied with this mandate through the introduction of the Federal Administration's bills, H.R. 6089 and S. 1687, "The Alaska Conservation Act of 1975." The Administration's bill would commit 32.26 million acres of land to management by the National Park Service, 31.59 million acres of land to management by the U.S. Fish and Wildlife

Service, 18.80 million acres of land to management by the U.S. Forest Service, and 0.82 million acres of land to the National Wild and Scenic River System. The bill would thus place within the traditional "four systems" federal land classifications, a total of 83.47 million acres of land (see table p. 9).

These bills would thus preclude, except through the voice of the State's Congressional delegation, any meaningful Alaska input into land use decisions affecting 83 million acres of land within the boundaries of the State. In addition to this 83 million acres, approximately 69 million acres of land would remain (after State selection) in the federal public domain. This vast amount of land, under the management of the Bureau of Land Management, would also be beyond any meaningful State direction. Recent events pertaining to the federal outer continental shelf off Alaska vividly demonstrate the ways in which federal land management decisions can frustrate, or undo, the most carefully conceived State wishes pertaining to land development or land conservation. This is the problem with which the State's proposal deals.

The State's proposal recognizes certain realities: (1) that Congress will enact "D-2" legislation setting aside new National Parks, Forests, Wildlife Refuges, and Wild and Scenic Rivers; (2) that the only way to insure that the State's interest is not frustrated by federal land management decisions is to participate directly, in Alaska, in

those decisions; and (3) that land management decisions most deeply affect lands lying adjacent to the area under federal government. The proposal which is set out in the following pages is a preliminary proposal developed by the Governor's Task Force on National Interest Lands in Alaska. The proposal attempts to deal with these problem issues in a balanced, realistic way, in recognition that since Congress is going to act, it should do so with a clear understanding of the State interests involved.

The most important concepts that have been developed are an Alaska Land Commission, a body with equal state and federal appointees which would make land management decisions on a large amount of federal land; the Alaska Resource Lands, a new flexible land category, and the Cooperative Management Area ("Comans"), broad areas containing federal and State lands where cooperative planning and management would be encouraged.

The State feels that its proposal presents important new concepts. During the next few weeks, these concepts will be presented to the public for their views. These views will receive serious consideration so that the State's final proposal will represent, to the maximum degree, the position of the people of Alaska.

Definitions

A. Traditional "Four Systems" Lands

National Park - National Park Service Management:

Lands recommended for additions to this system may be adjacent to existing National Parks or National Monuments. Expansions will complement the original park or monument by providing more logical management units or by enclosing major portions of the eco-system. They contain unique natural features and high scenic values. They may contain large populations of fish and wildlife or prime habitat, paleontological values, unique geologic values or high wilderness values. These areas will be closed to hunting and trapping but open to fishing under State regulation. They are closed to mining, livestock grazing, and State selection.

National Preserve - National Park Service

Management: Lands recommended for additions to this system generally have the same values as stated for National Parks. The areas are open to hunting, trapping and fishing, however, in accordance with applicable state regulations. They are closed to mining. They may be selected specifically to cover areas with prime fish and wildlife values. The stress of management is concerned more with cultural values than in national parks, and preserves may provide "buffers" to core national Park areas. Hunting, trapping and fishing are usually oriented toward subsistence use or toward low density, high quality experience. These areas are closed to state selection.

National Recreation Areas - National Park

Service Management: Lands recommended for additions to this

system generally have the same values as stated for national parks but may be less pristine due to increased access. They may provide a core of development related to National Park Service management for the area. They may be adjacent to other National Park Service lands. The emphasis is more on enhanced recreational pursuits than with other lands under Park Service management. They may contain key fish and wildlife habitat needed for fish and wildlife enhancement development. Mining is allowed under strict control. Hunting, trapping and fishing are allowed in accordance with applicable State regulations. Subsistence use and high quality experiences are stressed. These areas are closed to State selection.

National Wildlife Refuges & Ranges - Fish and Wildlife Service Management: Lands recommended for additions to this system may be adjacent to existing refuges or ranges. They are designated to cover key waterfowl, sea bird, endangered species or international treaty species habitat. They may contain prime national interest resident fish and wildlife habitat and prime scenic, recreational and scientific values. They may also contain high wilderness values. Domestic livestock grazing may be allowed if compatible with prime values. They may be opened by the Secretary to mining under strict regulations. They are open to hunting, trapping and fishing in accordance with applicable State regulations. They are closed to State selection.

National Forests - Forest Service Management:

Lands recommended for addition to this system may be adjacent to existing national forests. They may or may not contain timbered areas. They contain nationally significant lands with prime values more closely aligned to the multiple use management policies of the Forest Service. They may contain prime fish and wildlife habitat. Fish and wildlife habitat enhancement programs may be promoted. Domestic livestock grazing may be a prime value. They may contain prime scenic, recreational, scientific and wilderness values. They are open to mining, regulated in key prime use areas. They are open to hunting, trapping and fishing in accordance with applicable State regulations. The State may recommend Congressional prime use designation for specific parcels. They are closed to State selections.

Wild & Scenic Rivers - Federal Agency Which

"Owns" The Land as Management Agency: Lands and waters recommended for additions to these systems would be managed by the Federal "owners" of surrounding lands under the Wild and Scenic Rivers Act of 1968. These areas may possess outstanding scenic, recreational, geologic, fish and wildlife, historic or cultural values. They contain high water quality rivers, free of impoundments. Wild rivers are generally inaccessible except by trail; scenic rivers may be accessible by road. Watershed or shorelines are essentially primitive. Motorized access will be controlled, but a special provision may be included in the legislation to protect some seasonally oriented motorized access.

They may include adjacent State lands if requested by the State. Wild rivers are closed to new mineral entries. Scenic rivers may be opened by the managing agency to mining. Both are closed to State selection.

B. Alaska Resource Lands. (See p. 18 for further definition)

Alaska Land Commission Classification:

Lands recommended for inclusion in this new system are nationally significant federal lands with Congressionally designated prime values. Prime use designation will dictate which agency will manage. They may contain prime scenic, recreational, fish and wildlife, scientific or wilderness values. Other compatible uses will be allowed such as fish and wildlife habitat enhancement programs, livestock grazing, mining under strict regulation, and hunting, fishing and trapping in accordance with applicable State regulations.

C. Cooperative Management Areas ("Comans"). (See p. 20 for further definition).

Alaska Land Commission Classification of Federal Lands (and with State enabling law, State Lands) - Bureau of Land Management and State Land Management: These are large areas where land planning and management require coordination. All federal lands within these areas are under classification purview of the Alaska Land Commission. Commission authority over State land within the areas would require State legislation. Private lands are included only on a voluntary basis under cooperative agreements. The lands would be classified by the Commission and managed in accordance with sound multiple

use principles. They are open to regulated mining, to hunting, trapping and fishing in accordance with applicable State regulations, and to domestic animal grazing. The parcels of federal vacant and unappropriated land may be opened by the Commission to State selection.

D. Special Study Areas: These are Alaska Resource Lands which have been identified as possessing unusually high natural values. The Commission will be directed to complete studies for these areas to determine whether or not they require special classifications.

III
ACREAGE COMPARISON

(Millions of Acres)

	State	Interior	Conservationists	Young	Udall	Dingell
National Park Service	16.738	32.26	52.1	13.93	47.80	
Fish & Wildlife Service	15.294	31.59	50.8		43.20	76.31
Forest Service	4.585	18.80	1.6	28.31	1.60	
Wild & Scenic Rivers		0.82	1.6	0.50	1.6	
SUBTOTAL	36.617	83.47	106.1	42.74	94.20	76.31
Ecological Reserve					11.90	
Alaska Resource Lands	61.946					
Scenic Reserve				24.39		
TOTAL	98.563	83.47	106.1	67.13	106.1	76.31

STATE PROPOSAL

ALASKA RESOURCE LANDS

	<u>Millions of Acres</u>
West Arctic	27.544
Northeast	17.860
Alaska Peninsula	5.890
Lake Clark	3.238
Mt. McKinley	1.030
Nabesna	3.131
Chitina	.832
St. Elias	2.421
	<u>61.946</u>

STATE PROPOSAL

NATIONAL PARK SERVICE

	<u>Millions of Acres</u>
Gates to the Arctic - Park	5.728
Gates to the Arctic - Preserve	.562
Mt. McKinley	
N - Park	1.015
S - Park	.655
Rec. Area	.542
Kobuk Valley - Preserve	.325
Cape Krusenstern - Preserve	.180
Imuruk - Preserve	.722
Yukon River - Recreation Area	.698
Aniakchak - Preserve	.138
Katmai Add. - Park	.515
Wrangell Mountains	
Park	3.708
Preserve	1.950
	<u>16.738</u>

STATE PROPOSAL

REFUGES AND RANGES

	<u>Millions of Acres</u>
Shishmaref	1.436
Selawik	1.225
Koyukuk	2.400
Kanuti	.447
Yukon Flats	2.144
Arctic Wildlife Range Addition	2.224
Kaiyuh	.121
Innoko	1.541
Yukon Delta	3.421
Cape Newenham Addition	.265
Alaska Coastal Refuges	.070
	<u>15.294</u>

STATE PROPOSAL

FORESTS

Millions of Acres

Chugach Addition

Kenai Fiords .598

Nellie Juan .297

College Fiord .964

Bremner - Copper Rivers 2.726
4.585

IV.

The Alaska Land Commission: A State Voice in Land Management Decisions

Purposes. As indicated earlier, all of the pending D-2 legislation has several shortcomings, relative to protection and enhancement of the public interest of Alaskans.

Those shortcomings are the:

(a) Failure to provide for State input into land management decisions pertaining to Federal lands, when those decisions have a State-wide impact;

(b) Failure to recognize that nationally significant resource values exist on many federal public lands in Alaska which, for many reasons, are not appropriate additions to the traditional "four systems"; and the

(c) Failure to recognize that in many cases, the conservation or development of these lands or resources is inextricably related to management policies on adjoining State or private lands, or on a federal lands having a different land management agency.

The Alaska Land Commission is an instrumentality which, in combination with the new land category concepts of Alaska Resource Lands and Cooperative Management Areas, could remedy these shortcomings in the pending legislation.

Composition. The Alaska Land Commission would be composed of six members. One of the members would be appointed by the President of the United States to serve as federal co-chairman of the Commission and two members would be appointed

by the Secretary of the Interior. Three members would be appointed by the Governor of Alaska, one of whom would be appointed by him as the State's Co-chairman. The members would serve at the pleasure of the appointing authority.

The Co-chairmen would be responsible for directing the work of the Commission staff. The Federal Co-chairman or the Secretary could veto any land classification order of the commission as it affects federal lands in Alaska, and the State Co-chairman or the Governor could veto any land classifications order of the Commission as it affects State lands.

State participation on the Alaska Land Commission, and classification authority of the Commission over State lands, would have to be authorized by an act of the State Legislature. An integral part of the State's proposal then, assuming public acceptance of the proposal, would be an Administration bill, which would be presented to the legislature authorizing the Alaska Land Commission and the powers and duties mentioned.

Federal Lands Subject to Commission Classification Authority. All federal public lands in Alaska included within the Alaska Resource Lands system and all vacant and unreserved federal public lands in Alaska included within the Cooperative Management Areas designated, would be subject to regulations adopted by the Commission. These regulations would establish land classifications, setting forth permitted and prohibited uses. The authority of the Commission would, of course, be limited with respect to Alaska Resources Lands by the prime value designation for each area.

State Lands Subject to Commission Classification Authority. Assuming public and legislative acceptance, all vacant and unreserved State public lands (including tide and submerged lands underlying navigable waters) that are included within the Cooperative Management Areas designated, would be subject to regulations adopted by the Commission. These regulations would establish land classifications, setting forth permitted and prohibited uses.

Powers and Duties of the Commission. The Alaska Land Commission would be located in Alaska. It would be authorized to:

(1) Adopt regulations establishing, and from time to time amending and revising, land classifications to promote sound conservation and land use practices, setting forth permitted and prohibited uses on federal lands in Alaska subject to the classification authority of the Commission as set forth above;

(2) To the extent provided in State law, adopt regulations establishing, and from time to time amending and revising, land classifications setting forth permitted and prohibited uses on State lands in Alaska subject to the classification authority of the Commission as set forth above;

(3) Adopt regulations for identifying transportation and utility corridors in Alaska as these become necessary to meet both national and State transportation needs across all

federal lands in Alaska except areas designated by Congress for wilderness review or for inclusion in the National Wilderness System;

(4) To the extent provided in State law, adopt regulations identifying transportation and utility corridors provided for in (3) of this section across State lands;

(5) Promote the establishment and utilization of cooperative management plans and agreements between federal land managers, State and local government land managers, and private land owners, giving priority to those areas designated as Cooperative Management Areas;

(6) Undertake a continuing review of management practices and classification decisions on all federal and State public lands in Alaska, including lands in the National Park, Refuge, Forest, Wild and Scenic Rivers, and Alaska Resource Lands systems, for the purpose of evaluating the adequacy of existing State and Federal public lands laws, policies and management programs in providing for the overall conservation, protection, and beneficial utilization of Alaska's natural resources in the best public interest of the people of the nation and State.

Area Advisory Boards. Area Advisory Boards would be established under the Commission so that landowners, land managers, and local interests would be able to participate in planning and management decisions affecting specific areas.

V.

Alaska Resource Lands: The New
Approach to National Interest Lands

Alaska Resource Lands are a new system of reserved federal national interest lands in Alaska. The concept arises from a dual purpose: to provide a mechanism by which the State of Alaska may affect management decisions concerning federal public lands in Alaska and to provide proper management for certain federal public lands in Alaska, which are not appropriate for additions to the traditional "four systems," but which are nevertheless essential to the proper conservation, protection, management and enhancement of certain resource values of national significance. This dual purpose finds a focus in the Alaska Resource Lands category -- a land system over which the Alaska Land Commission has classification authority within the bounds of a Congressional prime or dominant value designation. The authority would extend to ensuring that other compatible uses of the area are not permitted to endanger the prime value of the area. The actual management activities would be carried out by the appropriate management agency.

The thrust of the concept is on what is permitted, not what is prohibited. To begin with, the national interest areas in this system will have a dominant or prime value established by Congress whether that be scenic, recreational, fish and wildlife, scientific, or wilderness, and that prime or dominant value would be protected. But other compatible uses would be allowed,

such as fish and wildlife habitat enhancement programs, livestock grazing, mining under strict regulation, and fishing, hunting and trapping under State regulations. It would be up to the Commission to use its authorities with respect to these compatible uses, so that they are designed and carried out in a manner and in areas which will ensure protection of the prime values.

VI.

Cooperative Management Areas (Comans): Pooling Resources to Provide for the Public Interest in Conservation and Development

The concept of the cooperative management areas was developed in recognition that decisions affecting land often have effects far beyond the boundaries of the particular parcel of land being managed. The particular range of effects that the concept tries to deal with are those upon the natural and biological systems of particularly significant areas. In every case, the core of these significant areas are the national interest lands (whether they be Alaska Resource Lands or four systems lands) within the "Comans."

A second purpose behind the "Comans" concept is that it would give the State participation, through the State's representation on the Alaska Land Commission, over additional federal lands in Alaska. These are lands which are not "national interest" lands, although, in many cases, their values are extremely high. These are federal lands over which in the usual course of events, the State would have no say.

The "Comans" would contain private lands within its boundary, and it should be made clear that private lands within these areas would not be regulated. The landowners would be encouraged, however, to voluntarily manage their lands in ways that are not incompatible with the natural and biological systems within the "Comans." Private landowners would be encouraged, but not compelled, to enter into cooperative management agreements.

The Alaska Land Commission would play an important role with respect to the "Comans." With the exception of the "four systems" lands, it would have broad classification authority over the federal lands in the "Comans". It would classify the lands for a variety of uses. The thrust of the "Comans" concept, even more than for the Alaska Resource Lands, would be to enhance all the uses, but at the expense of no single use. These areas would be open to domestic animal grazing, to hunting, trapping and fishing under State regulations, and to regulated mining. This is sound multiple use and would be fostered on these lands. The vacant and unreserved federal lands within the "Comans" could be opened by the Commission to State selection.

An important part of the "Comans" concept is the inclusion of State lands within the boundaries of the "Comans" under Commission purview. For two reasons this is needed to make the Alaska Land Commission work. First, the State is asking for continuing State participation through the Alaska Land Commission in the management decisions of over 62 million acres of Alaska Resource Land. It is therefore not unreasonable to expect that the State would include some of its public lands within the "Comans" as part of the cooperative management system being employed. Second, this arrangement makes good sense from a land management view. If our aim is to manage an area for multiple use -- it makes sense that land management decisions should be viewed from an area-wide perspective.

Whether or not State lands should be under Commission purview must be a public decision. If there is public acceptance of the idea, the Administration would ask the Legislature of the State of Alaska to pass legislation authorizing this plan and the Alaska Land Commission concept.

The last point which should be made regarding the "Comans" is that the actual management of the federal, State, and private lands would be carried out by the owners of the land. These owners would be, in the case of federal lands, the Bureau of Land Management, in the case of State lands, the Alaska Division of Lands.

VII.

Exchange Authority

This provision would authorize the Secretaries of the Departments of Interior, Agriculture, and Defense to exchange any lands or interests in lands in Alaska under their jurisdiction for the purpose of effecting land consolidations or to facilitate the management or development of lands.

VII.

Other Management and Jurisdiction Provisions

In addition to the concepts contained in the preceding description, the following other management or jurisdictional provisions would be treated in any proposal for legislation. The Governor's Task Force has not formulated positions, but seeks recommendations of the public on the following issues:

(1) Designation of Wilderness Study Areas. Such a provision would operate to withdraw for five years certain specified National Interest lands, (subject to valid existing rights), from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act. Within three years the Secretary would report to the President, his recommendations as to the suitability or non-suitability of any area so withdrawn for preservation as Wilderness. In the event of a recommendation favoring Wilderness designation, the President could then present his recommendations to Congress concerning permanent classification under the Wilderness Act.

(2) Designation of "Instant" Wilderness. An alternative to Wilderness study designation would be under this concept. The three-year study period would be circumvented and certain national interest lands would be designated as part of the Wilderness System immediately, by the Act itself.

(3) Wild and Scenic Rivers. The State seeks public comments regarding the inclusion of certain land and waterways within this classification. (See definition p. 6).

IX

Public Participation Process: Reaching a State Position

The foregoing proposal pertaining to "national interest" lands in Alaska is preliminary. There are many concepts contained in the proposal which are new and which require public comment, to ascertain the public's opinion of the proposal and to modify it in ways which reflect the public will.

The Administration has begun a public participation process to develop this interchange.

ISSUES AND ANSWERS REGARDING THE STATE'S PROPOSAL

The relationship of Alaskans to their land is unique in many ways. Pending Federal legislation creating approximately 83 million acres of new National Parks, Forests, Refuges and Wild and Scenic Rivers will have profound effects on the future welfare of the people of Alaska. The State's proposal is designed to reflect better the needs of Alaskans through:

1. MAXIMUM ALASKAN PARTICIPATION IN THE MANAGEMENT OF FEDERAL LANDS WITHIN ALASKA.
2. RECOGNITION OF THE RIGHTS OF RURAL ALASKANS TO SUBSISTENCE HUNTING AND FISHING.
3. RECOGNITION OF THE RIGHTS OF THE SMALL PROSPECTOR.
4. REGULATION OF THE FISH AND GAME RESOURCES BY THE DEPARTMENT OF FISH AND GAME.
5. CONGRESSIONALLY MANDATED FLEXIBILITY IN LAND MANAGEMENT TO MEET THE FUTURE NEEDS OF THE PEOPLE OF THE STATE.
6. PLACING THE FOCUS OF LAND MANAGEMENT DECISIONS WITHIN THE STATE.
7. PROTECTION OF THOSE AREAS OF TRULY UNIQUE NATIONAL VALUES FOR FUTURE GENERATIONS.

These values are reflected in the State's proposal by:

1. REDUCTION OF THE ACREAGE TO BE INCLUDED WITHIN THE TRADITIONAL FOUR FEDERAL MANAGEMENT SYSTEMS FROM 83 TO 37 MILLION ACRES.
2. STATE PARTICIPATION THROUGH THE CREATION OF AN ALASKA LAND COMMISSION, DIRECTED BY STATE AND FEDERAL CO-CHAIRMEN, WITH POLICY AND CLASSIFICATION AUTHORITY OVER 62 MILLION ACRES OF ALASKA RESOURCE LANDS.
3. ALL AREAS EXCEPT NATIONAL PARKS - ABOUT 5.7 ACRES ARE OPEN TO HUNTING.
4. ENTRY RIGHTS FOR MINERAL RECONNAISSANCE AND PROSPECTING ARE GUARANTEED FOR ALL FEDERAL LANDS WITHIN THE ALASKA RESOURCES LAND AND COOPERATIVE MANAGEMENT AREAS CATEGORIES AND FOR A MAJORITY OF THE ACREAGE WITHIN THE ADDITIONS TO THE TRADITIONAL FOUR SYSTEMS.
5. STATE OF ALASKA AUTHORITY TO REGULATE RESIDENT FISH AND WILDLIFE IS REAFFIRMED IN THE PROPOSAL.
6. CREATION OF LARGE NEW NATIONAL PARKS IN THE WRANGELLS AND BROOKS RANGES PLUS SIGNIFICANT ADDITIONS TO OTHER PARK, REFUGE AND FOREST AREAS.

****PLEASE NOTE****

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Description:

Newspaper The Anchorage Times , August 6, 1977
Pages 37,38, 39, and 40

"Two Committees to Hear Views of Alaskans on Udall's Plan
to Create Huge Wilderness"

THE LAND SITUATION IN ALASKA TODAY

Ernest N. Wolff

Nov. 23, 1977

Land revolutions have occurred in the past but it is doubtful whether one of such magnitude as the one we are now living through has happened before. For if we consider all aspects: area involved, rapidity, and above all, degree of change, we must conclude that we are dealing with one of the great revolutions of history.

Consider size: The U.S. has an area of 3.62 million square miles. Nine years ago, about one-third of this, 1.21 million square miles, was federal public domain. This is larger than India, larger than the Ukraine and Khazakhstan combined, bigger than the Louisiana Purchase and Texas, almost as big as the Louisiana Purchase and the Spanish cessions. Alaska contained about one-half of this land.

Take speed of accomplishment. The land freeze was imposed in 1968. By 1976 (eight years) regulations were proposed based upon the 1976 Bureau of Land Management Organic Act that would require a permit at least 120 days in advance for virtually any use of the public domain in Alaska. Within five years more, unless a counter revolution develops, the process will be complete. This time is comparable to that required to secure the Russian takeover.

It is in degree of change, however, that we set records. In 1968, all of this 1.21 million was open to mineral entry, and theoretically to homesteading. Half of it, about 0.6 million square miles (Alaska) was in fact open to settlement and acquisition. Today about one-half of it is closed to mineral entry, (three-fourths in Alaska), and all of it is closed to acquisition of surface rights. In truth, we have gone from the freest form of land tenure in the history of man to complete government control. Even in Russia the people only traded the Czars and a corrupt landed gentry for the communist regime, not really much of a change.

This short presentation can only sketch the broad outlines of how we got where we are, which I will attempt to do in what follows. The U.S. was founded squarely on the premise that private ownership of land gave the most political freedom and the

greatest economic benefits. Various means were used to convert virgin land into private land, but the homestead act of 1863 was the only used in the west and Alaska. Any citizen who wanted to create a farm or business could claim 160 acres. Mineral rights were claimed in a somewhat analogous fashion, but based on a discovery of mineral and a diligent expenditure of effort to improve the mineral showing. Both the agricultural settlement laws and the mineral development laws were based on individual effort, and the entryman was rewarded exactly in accordance to his effort.

The first chink came in 1934. In that year the Taylor Grazing Act was passed. After that, the individual must prove that his land was suitable for agriculture. If merely suitable for grazing, the citizen could not own it, only lease it. The Mining Law of 1872 was specifically retained. All land laws continued in Alaska.

In 1946 the Bureau of Land Management was created from the Land Office, responsible for disposing of land, and the Grazing Service, responsible for the Taylor Grazing Act.

As the years went by a larger proportion of the population was concentrated in cities and in service industries. Today less than 5% of the people operate the farms. Less than 0.5% of our population operates its hardrock mines; certainly less than 3% is involved in mining at all. The rest of the population cannot conceive how the land laws were adopted or why an enlightened nation put up with them as long as it did. In the states of Alaska, Arizona, Colorado and Oregon, to name just four of our public land states, more than half of the population lives in major cities, works in service industries, and looks upon the public domain in the only way that their training and experience allows it to: as a potential playground for a population ever more affluent and idle. In 1968 the federal public domain consisted roughly of two parts, half distributed among the western states and half in Alaska, which had just recently achieved statehood. Any serious attempts to change the status of the public domain would best begin in Alaska which would present fewer complications. During the 1960's the idea grew that the Alaska Natives were entitled to some kind of settlement for their

aboriginal rights; this was natural since their meeting with the white culture had taken place more recently. Accordingly in that year, 1968, all of Alaska was withdrawn from appropriation to protect the natives' rights. By an accident, the statutory authority to withdraw land from entry for metalliferous minerals did not exist, and the general mining law continued in force for metals. But for this accident, Alaska would have been completely captured, for from that day in 1968 to this there has not been one federal lease and only a few homesteads (claimed during a year's grace).

When the native claims act was finally passed in 1971, it provided for a settlement of land to the natives, generally not as individuals, but to corporations. It also provided for about 80 million acres of parks, etc., and the rest to go into land use planning, with strict control by the government. About 12 million acres were returned to homesteading, but this was rapidly taken back. The mining laws would have been repealed but for the efforts of the Alaska Miners Association and our small congressional delegation. Had this happened, we would have been dead in the water.

The lands that were to go into special categories (the D-2 lands) go to parks, forests, wild rivers and refuges. The residual lands were to be managed by the Bureau of Land Management. The BLM immediately began to urge a "BLM Organic Act" on the theory that these were not residual lands, but should belong to them, just as the parks belong to the Park Service. Thus today we hear of "BLM owned land." This Organic Act was passed in 1976. All land laws were repealed, except the mining law, and sweeping powers were given to the BLM. The homestead law was extended in Alaska for 10 years but the old concept of a citizens' right to a homestead was erased and it is unlikely that any homesteads will be patented within the grace period. Some idea of the BLM attitude toward land can be gleaned from their suggestion for the town of Wiseman on the pipeline road. Here property rights go back to 1898, yet they suggest a life estate or lease for home owners there.

Let us state the facts on this 23rd day of November, 1977.

1. The State of Alaska is entitled to about 103 million acres. It has selected 72.5 million acres of this, and has 36.5 million acres tentatively approved or patented. If selected only, the land

is withdrawn from both federal and state mining laws. The state is entitled to this land with no qualifying conditions.

2. Since 1968 all federal land has been withdrawn from all forms of appropriation except for metallic minerals.

3. The native corporations are entitled to about 44 million acres. Ninety nine million were set aside; they have over-selected by about twice, tying up that land from all forms of appropriation. Inholdings are protected, but BLM says that the mineral claimant must apply for patent to protect his land. This is being contested.

4. The additions to the parks, etc., the so called D-2 lands, have grown from 80 million to perhaps 160 million.

5. The residual federal land, the so called D-1, is now claimed by the BLM, to be controlled according to the terms of the BLM Organic Act. Proposed regulations issued last winter would have placed all mining on private claims under BLM's absolute control. Proposed regulations for the general public would have required permits for every non-trivial use of that land (the old public domain). Any other use will require that the land be classified first. The first sentence of the Organic Act says that no more land shall be disposed of unless the Secretary of Interior decides it is in the best interests of the U.S. This implies that any future development will be by leasing. No one is allowed to live on the public domain, and structures thereon are being destroyed.

6. D-2 selections have been taken so as to break Alaska into segments. The old access system of section line right-of-ways has been circumvented. The State of Alaska has been broken up.

7. Central planning is now the law on one-third of the land in the U.S.

8. Alaska will be depopulated. The great system of trails and roadhouses that formerly tied it together is no more. Building roads is virtually impossible, we consist of islands connected by air travel. We must all face up to the significance of this in terms of social, economic and military consequences.

9. Private patented land in Alaska is estimated at between 650,000 and 960,000 acres. This means that less than one-quarter

of one-percent of Alaska is privately owned and can be bought and sold by you and me.

10. Future human settlements will be created only by central planning.

11. The future of the native lands is uncertain. They, too, will be developed by central planning.

12. Minerals are still developed by the terms of the U.S. mining law. However, only 17% of Alaska is open to this law, and a further 9% is open to State mineral law, which is being more and more pushed toward restrictive leasing, since whether state land is open to leasing or location depends on its classification. Today about one-third of the state lands have been classified. Nine percent of this is open to mineral location, the rest to possible mineral leasing. The U.S. mining law is subject to continuous attack. There is a concerted effort to invalidate mining claims by one means or another.

13. The Alaska Department of Fish and Game has recently attempted to have large areas of land withdrawn from all human activities, on the thesis that land may be game habitat and hence must be controlled.

14. The amount of land disturbed by mining in Alaska is estimated at about 44,000 acres, or about 0.012%. If half of this has reclaimed itself for its highest function, i.e., game habitat, the land disturbance by mining is truly infinitesimal.

15. The trend in land legislation has been to tie one course of action to another. Thus we had to have the native claims act to get the pipeline. Now we are told we must not oppose a D-2 settlement or we will not get the state entitlement.

The foregoing analysis is actually simplified. The true situation is much more complex and defies complete comprehension. However, I believe that it is fairly accurate and realistic. I believe that it indicates that we are living and will live in a government regulated society in Alaska. To what extent this can be directed and altered is up to the people of this state through their elected representatives. We cannot expect the rest of the U.S. to do it for us.

****PLEASE NOTE****

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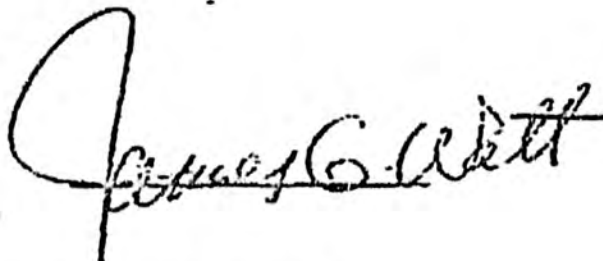
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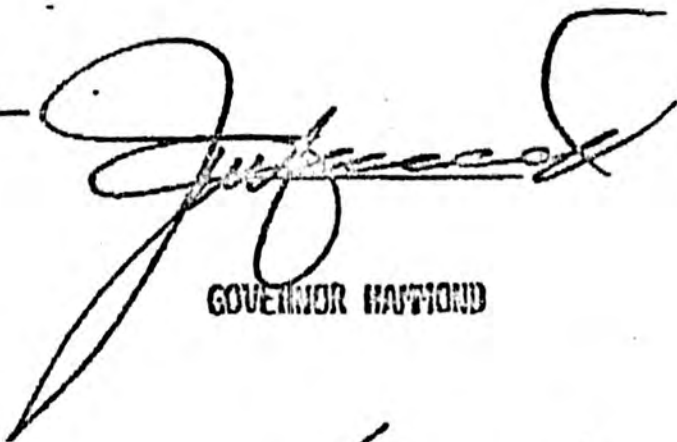
Supplement to Anchorage Daily News, Anchorage Times, Fairbanks News-Miner, Tundra Times, Southeast Empire, Ketchikan News, and Nome Nugget.

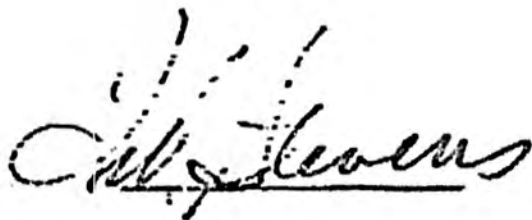
"WHO WILL MANAGE ALASKAN LAND?" no date, 16 plus pages

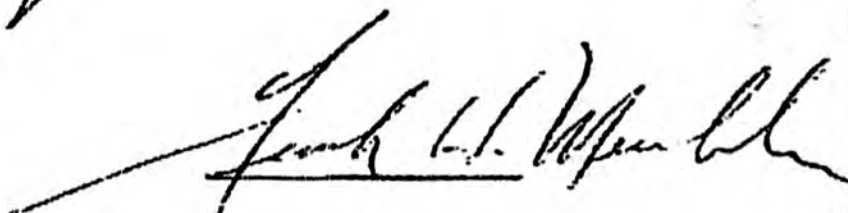
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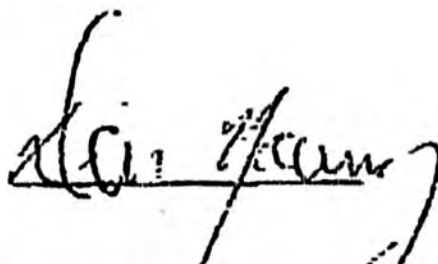
WE INTEND TODAY'S ACTIONS TO BE THE START OF A CONTINUING PROCESS
IN WHICH THE DEPARTMENT AND ALASKA'S ELECTED LEADERSHIP WILL WORK
COOPERATIVELY TO ENSURE THAT THE FEDERAL POLICIES IN ALASKA ARE
RESPONSIVE TO THE AIMS AND NEEDS OF AMERICA AND ALASKA'S CITIZENS.
THE DEVELOPMENT OF COMMON SENSE FEDERAL POLICIES IS THE MOST
APPROPRIATE MEANS OF DEFUSING THE SAGEBRUSH REBELLION IN ALASKA.


SECRETARY WATT


GOVERNOR NATHAN


SENATOR STEVENS


SENATOR MURKOWSKI


REPRESENTATIVE YOUNG

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THE SECRETARY OF THE INTERIOR
WASHINGTON

ALASKA COOPERATIVE POLICY STATEMENT

PURSUANT TO A SERIES OF CONSULTATIVE MEETINGS SINCE JANUARY 20, 1981 AMONG GOVERNOR HAMMOND, SENATOR STEVENS, SENATOR FURUKAWA, REPRESENTATIVE YOUNG AND LT. GOVERNOR MILLER TODAY WE ARE TAKING THE FIRST STEPS TO REORIENT THE POLICIES OF THE DEPARTMENT OF INTERIOR TO BE CONSISTENT WITH THE THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AND THE INTERESTS OF ALASKA. THE EIGHT SPECIFIC ACTIONS OUTLINED CLEARLY INDICATE THAT THE DIFFERENCES OF THE PAST HAVE BEEN PUT ASIDE AND A NEW ATTITUDE OF COOPERATION BETWEEN THE DEPARTMENT AND THE STATE OF ALASKA EXISTS:

- (1) FORMAL RECISSION OF ANTIQUITY ACT AND FLPTA WITHDRAWALS;
- (2) PRIORITY ASSIGNED TO LAND CONVEYANCES TO THE STATE AND NATIVE CORPORATIONS
- (3) DESIGNATION OF U.S.G.S. AS THE LEAD AGENCY FOR THE OIL AND GAS STUDY ON THE ARCTIC WILDLIFE RANGE;
- (4) DIRECTIVE TO CLM TO REVIEW REMAINING EXECUTIVE WITHDRAWALS;
- (5) DIRECTIVE TO THE SOLICITOR TO REVIEW LITIGATION INVOLVING ALASKA;
- (6) DIRECTIVE TO CLM TO CEASE WILDERNESS REVIEWS IN ALASKA;
- (7) DIRECTIVE TO APPROPRIATE BUREAUS TO EXPEDITE DEVELOPMENT OF THE NON-NORTH SLOPE OIL LEASING PROGRAM;
- (8) DECISION TO NOT PRESENTLY PURSUE THE CARIBOU TREATY WITH CANADA AND AN AFFIRMATION OF ALASKA'S RIGHT TO MANAGE TAKING OF WOLVES ON CLM LANDS.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20500

March 12, 1961

Memorandum

To: Assistant Secretary-Land and Water Resources
Assistant Secretary for Fish and Wildlife and Parks
Assistant Secretary-Energy and Minerals

From: The Secretary *John W. DeLoach*

Subject: Development of an Oil and Gas Leasing Program for
Non-North Slope Federal Lands in Alaska

Section 1008 of the Alaska National Interest Lands Conservation Act of December 2, 1960 (Public Law 86-607; 24 Stat. 2371), directs the establishment of an oil and gas leasing program on Federal lands in Alaska that are outside the National Park System, the National Petroleum Reserve-Alaska, the Arctic National Wildlife Refuge, and the study area described in Section 1001 of the Act. In view of the continuing energy crisis and this Administration's interest in becoming independent of reliance on foreign oil supplies, it is essential that we implement this program immediately.

In accordance with Section 1008 of the Act, action must be initiated immediately to identify at the earliest possible date areas in Alaska within the National Wildlife Refuge System and on lands administered by the Bureau of Land Management which should be leased for the exploration and development of oil and gas.

The Assistant Secretary, Land and Water Resources, in cooperation with the Assistant Secretaries for Fish and Wildlife and Parks, and Energy and Minerals, shall develop a schedule by July 1, 1961, which will permit competitive and/or noncompetitive leasing within the next two years. The schedule should describe the steps that must be undertaken before such leases could be issued and the estimated time frames required for each. The schedule need not identify areas to be leased.

For Release March 12, 1981

WATT OUTLINES "GOOD NEIGHBOR" POLICY FOR
LAND MANAGEMENT IN ALASKA

Interior Secretary James Watt asked Alaskans today to join his Department in implementing the new Alaska National Interest Lands Conservation Act and in developing balanced management policies for the largest State's 70 million acres of multiple-use federally owned lands.

"I think it's time to put all past differences aside and move forward as good neighbors who work together for the benefit of all concerned," Watt said in a meeting with Alaska's Congressional delegation and Governor.

Watt said he agreed wholeheartedly with Alaska officials that top priority must be given to conveyances of Federal lands to the State and to the Alaska Native populations, under the new law and the Statehood Act and Alaska Native Claims Settlement Act. The process of completing transfer of 103 million acres to the State and 44 million acres to the Indian, Eskimo and Aleut populations will be facilitated under the 1980 Act, which was signed into law last December following years of uncertainty over the future of enormous blocks of land.

Watt said as a result of consultation with Governor Hammond, Senator Stevens, Senator Murkowski, Representative Young, and Lieutenant Governor Miller, the following specific actions would be taken giving Interior a new direction in Alaska and a commitment to work with State interests:

(1) Notice will appear shortly in the Federal Register formally rescinding all executive withdrawals made by the previous Administration during 1978 and 1980, as was provided by the terms of the Alaska National Interest Lands Conservation Act.

(2) Land conveyance to the State and Natives will be expedited, with sufficient staff and funds requested of Congress so as to transfer 13.5 million acres during fiscal year 1982--9 million acres to the State and 4.5 million to the Natives.

(3) The Secretary is directing that the lead agency within Interior for the oil and gas studies mandated by the Lands Act on the Arctic National Wildlife Refuge will be the U.S. Geological Survey instead of the U.S. Fish and Wildlife Service. Both agencies will have active roles in these studies of the area's oil and gas potential and its wildlife populations.

(4) The Secretary is directing the Bureau of Land Management (BLM) to begin work on eliminating "emergency" withdrawal orders dating back to the early 1970's, many of them based on Section 17(d)(1) of the Native Claims Settlement Act.

(more)

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20540

March 12, 1981

Memorandum

To: Director, Bureau of Land Management

Through: Assistant Secretary-Land and Water Resources

From: The Secretary *[Signature]*

Subject: Expedited Review and Analysis of Lands in Alaska
Closed to Appropriation

Most lands in Alaska administered by the Bureau of Land Management (BLM) have been closed to all forms of appropriation for more than 10 years pending settlement of Alaska Native claims and the establishment of new national parks, wildlife refuges, forests, wild and scenic rivers, and wilderness.

As a result of this long closure, I believe a quick review and analysis is now needed of all NIA lands in Alaska which can be administratively opened under the public land laws, the mining laws, and the Mineral Leasing Act of 1920. Lands to be considered are primarily those currently withdrawn pursuant to Section 17(d)(1) of the Alaska Native Claims Settlement Act.

This review and analysis should (1) attempt to identify specific lands which can be opened, (2) describe to that extent and under which form of appropriation these lands should be opened, (3) include a schedule showing the type and extent of the opening that can be completed within this calendar year, and (4) contain an explanation of why other areas which can be opened by administrative means should not, in your view, be opened.

The analysis should also take into consideration the impact that opening lands would have on entitlement yet to be cataloged under the Alaska Statehood Act, the Alaska Native Claims Settlement Act, and various provisions of the Alaska National Interest Lands Conservation Act. It should also take into account State, Native, and public views to the extent permitted within the review and analysis period.

It is my understanding that you have already initiated these actions. In an attempt to minimize the delays in State and Native conveyances that the review and analysis will precipitate, you are requested to complete them by April 15, 1981.

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20310

March 12, 1981

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary/Land and Water Resources
From: The Secretary
Subject: Alaska Wilderness Reviews

As you are aware, Section 1320 of the Alaska National Interest Land Conservation Act (Public Law 95-607, 90 Stat. 2371, 2407) eliminated the wilderness review provisions of Section 603 of the Federal Land Policy and Management Act of 1976 for lands established by the Bureau of Land Management (BLM) in Alaska. Section 1320 also gives the Secretary discretionary authority to identify and make recommendations to Congress regarding areas in Alaska which he determines are suitable as wilderness and for inclusion in the National Wilderness Preservation System.

In an exercise of the discretionary authority and in light of the exhaustive wilderness reviews that have taken place in Alaska over the past eight years, I have decided that no further wilderness inventory, review, study, or consideration by the Bureau of Land Management is needed or is to be undertaken in Alaska, except in those areas where study is mandated in legislation.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

March 12, 1981

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary-Land and Water Resources
From: The Secretary *[Signature]*
Subject: Alaska State and Native Conveyance Programs

The President has committed this Administration to the goal of recognizing the rights of the States and private enterprises to manage their own affairs. In order to meet this commitment, it is imperative that we fulfill our obligations to these entities.

The State of Alaska and the Native corporations formed under the Alaska Native Claims Settlement Act have entitlements that have not yet been satisfied. Until these entitlements are fulfilled, the goals of this Administration cannot be realized. Therefore, the State and Native conveyance programs in Alaska must continue to be a top priority of this Department. To maintain this priority, the Department will provide a reasonable support necessary to achieve significant accomplishments in terms of acres conveyed.

In addition to whatever support the Department is able to provide, it is possible that the State of Alaska may authorize and appropriate funds to be contributed to the Department to assist and expedite the State conveyance program. These funds would constitute a supplement to the Department's present program. Efforts to develop a cooperative agreement with the State of Alaska should be undertaken immediately to permit the Department to accept funds for this purpose.

March 12, 1931

Memorandum

To: Solicitor

From: The Secretary

Subject: Alaska Litigation

W. A. R. W. A. R.

I am most interested in establishing good relationships with the States as part of my "good neighbor" policy. In case of Alaska, the Department now has an excellent opportunity to work cooperatively and harmoniously with the State toward our mutual objectives. In this spirit, I am directing you to review carefully all ongoing issues between the State or an individual or organization which affects the use of Alaskan lands and the Federal Government where the Department is a party with a goal of resolving the issues in litigation out of court. It is my hope that the Federal Government can now turn from past disagreements with the State in order to concentrate its efforts in conducting in the exciting future of the forty-ninth State.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20540

March 12, 1981

Memorandum

To: Director, Geological Survey
Director, Fish and Wildlife Service

Through: Assistant Secretary-Energy and Minerals
Assistant Secretary for Fish and Wildlife and Parks

From: The Secretary *[Signature]*

Subject: Transfer of Lead Agency Responsibilities for the Arctic
National Wildlife Refuge Report and Exploration Regulations

This is to designate the Director of the USGS as the lead Federal agency for preparing the Arctic National Wildlife Refuge Oil and Gas Report required under Section 1002(h) and the exploration regulations required under 1002(d) of Title 10 of the Alaska National Interest Lands Conservation Act (16 USC 3101). That responsibility was previously assigned to the Director of the FWS and is transferred to the Director of the USGS, effective immediately. I am taking this action based on a thorough review of the legislative requirements and in light of the respective mission and expertise of the USGS and FWS. Based on that review, I have concluded that the USGS is the most appropriate Interior Bureau for preparing the report, drafting the regulations, and preparing the EIS on exploration regulations. In the preparation of the report, USGS is directed to involve and utilize the Office of Minerals Policy and Resource Analysis.

The FWS shall retain responsibility for preparing the baseline fish and wildlife study required under Section 1002(c) and its concurrence shall be required on the regulations. That study is to include an analysis of the potential impacts of oil and gas exploration, on the wildlife and habitat of the study area. The exploration assumptions for that study are to be developed by the USGS and provided to FWS within 60 days. I recognize the need for a continuing inventory and assessment of fish and wildlife values to evaluate the changing dynamics of the study area ecosystem. That should not impede, however, the preparation of the baseline study. Much data is available and maximum utilization is to be made of the data collected relative to the Alaska National Interest Conservation Lands Act, the Alaska National Gas Line proposal and such other information as may be available. The baseline study is to be completed and the findings published, no later than December 1981. In view of the environmental nature of the study and the requirement for a formal EIS on regulations, an environmental analysis on the baseline study is unnecessary.

work is to begin immediately on drafting the exploration regulations. The principal objective of the regulations is to ensure that exploration is carried out in a manner that avoids significant adverse effects on the fish and wildlife resources of the area. The Director of USGS shall prepare regulations which achieve that objective in the most cost efficient manner. Of course, these regulations shall be modified as necessary following completion of the Section 1002(c) study. It shall be the USGS Director's responsibility to approve exploration plans with concurrence of the FWS. It is my goal that the regulations be in place to allow for exploration to begin no later than December 1982. The regulations and EIS are to be final no later than July 1982. This should allow industry sufficient time to prepare and submit their plans prior to December 1982. Plans cannot be approved until after December 2, 1982. The EIS shall pertain to decisions on plan and permit approval, as well as the regulatory aspects of exploration activities. In accomplishing this work the Directors shall ensure that close consultation is effected between their respective bureaus and the State of Alaska, Native villages and regional corporations in the region and the North Slope Borough.

(5) The Interior Department Solicitor is being directed to review the pending State litigation against Interior (including that based on the 1973 national monument designations and subsequent withdrawals for wildlife refuges), with a view toward seeking out-of-court agreements to settle the cases.

(6) BLM is also being directed to cease work on any Alaska wilderness surveys under Section 603 of the Federal Land Policy and Management Act.

(7) Also expedited will be the Bureau of Land Management's oil and gas leasing program on Federal lands in Alaska outside the North Slope, as mandated by the new Lands Act.

(8) The Secretary determined that it is inappropriate to presently pursue the caribou treaty with Canada which was proposed in 1930. In addition, he affirmed the State's right to manage taking of wolves on BLM administered lands in Alaska.

"In addition, it is also vital that the people most affected by Federal policies in Alaska have an important role in the development of those policies," the Interior Secretary said. "I intend to make sure that is what happens in the years ahead."

Watt said it is important to all Americans that Alaska's great wild areas and vast resources be managed in an orderly way, adding, "That includes orderly and balanced development of vitally needed resources--to forestall the plunder that would result if another major oil or mineral shortage put the country in the grip of a crisis mentality."

The Secretary announced his intention to appoint William P. Horn as Deputy Under Secretary of the Interior, with responsibility for coordinating implementation of the many complex features of the Alaska National Interest Lands Conservation Act. Horn served for the past four years as a consultant on Alaska lands to the House Interior and Insular Affairs Committee.

"I have told Bill Horn and others with responsibilities under this new law that its implementation is not to create an oppressive Federal presence in Alaska," Watt said.

"I am directing that in our regulations and other management policies under the Act, we seek to avoid creation of a 'permit lifestyle' which burdens people with unreasonable paperwork requirements. The history of the Act is replete with assurances that Congress wants the people of Alaska to continue their traditional activities with a minimum of interference. I intend to honor those promises," said Watt.

"I am also fully cognizant of the State's expressed policy regarding the Lands Act, and our people are being directed to consider the State's position in our implementation of the Act, to foster good-neighbor relations with Alaska and its people," he said.

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STATE ARCHIVES TO VIEW THE ORIGINAL.

Description: Fairbanks Daily News-Miner (newspaper)
"Locked Open' Policy Pushed", "Hammond Wants Greater
'use' Say", "Alaska Energy Resources Threatened by Lawlessness?"
November 18, 1975

Please read before Mar 28

STEERING COUNCIL FOR ALASKA LANDS
ALASKAN CONCERNS REGARDING COUNCIL ACTIVITIES

- * Stated purpose of the Council: to present a "consensus" state position on the Alaska National Interest Lands issue. That position is, as yet, undelineated. The Council is promoting a position in Alaska and in Washington, D.C. which has not been formally established (~~see-attached-news-stories~~).
- * The Council itself is strongly divided. Predominant representation is of anti-HR 39 interests. Much Council momentum and direction is provided by Senator Stevens office.
- * The Council was established by the legislature last year with a budget of \$300,000. This year's budget request is for \$831,000, to be used "if necessary", primarily for media work and influencing Congressional decision-making.
- * The Council and its media and legal consultants maintain many personal and working connections with the Citizens for the Management of Alaska's Lands, an anti-HR 39 Alaska based lobby group and American Mining Congress (~~see-attached-letter-August 5, 1977, Birch to Cowper (Council chairman), reference Tony Motley, executive director of CMAL~~).
- * The Council ran a public opinion survey of Alaskans re: the National Interest Lands issue (Rowan Media Group, consultants). Before conducting the survey the Council stated, "Our hypothesis is that Alaskans moved to the state to enjoy its rugged environment, want to see and experience all of it, but have not to date because of the time and money required as a result of lack of direct access." The slant of the questionnaire was corresspondingly directed toward misrepresentative questions regarding access to remore areas of the state.
- * The Council film (Rowan Media Group) promoting National Interest Lands concerns was based on a preliminary draft script, the tone of which is indicated by the following excerpts:
 - "...we see a thin line of pipe winding through miles of desolate mountain landscapes."
 - "...man-made environments like the Prudhoe encampment, a radiant entity on the colorless North Slope, have become significant parts of the state's ecosystems."
 - re: mineral access. "...How do you transport materials across such large tracts of wilderness, when by definition "wilderness" precludes that possibility? The endless

empty expanses passing ceaselessly before us echo our questions."

re: fish and game management. "...He (the warden) talks about the good record that the state has, and the earned respect from environmentalists and others for their well-done job."

This film, "Not Man Apart", is to be the basis for the Congressional interviews, January 30 - February 3, arranged for the Steering Council by Birch, Horton, Bittner and Monroe.

QUESTIONS

- * How was the Alaskan "consensus" position arrived at?
- * Did the Alaska public opinion survey, gotten underway in November, provide the basis for that position, or did the Council position (i.e. regarding access) precede survey completion?
- * Is the Council lobbying for a particular interest (reference- attached letter of August 5, 1977, Birch to Cowper)?
- * Under the present Committee Print No. ⁴2 of HR 39, doesn't it appear that careful processes are being provided to assure that mineral exploration and transportation needs are not "precluded"?
- * Are there some positive examples which counterbalance the frustration and dissatisfaction shared by many Alaskans regarding fish and wildlife management in Alaska, i.e. Western Arctic caribou herd, wolf and moose management, and inadequate research programs?



D-2 Battle Unusually

By LOIS ROMANO
Empire Washington Bureau

WASHINGTON — An unusually bitter verbal battle has emerged here between two of the key lobbying groups seeking to influence the outcome of landmark federal legislation on the future of Alaska's vast federal lands.

The month-old fight between the Alaska Coalition, an environmental umbrella group, and the Steering Council for Alaska Lands centers around allegations by the coalition that the Steering Council is pro-industry and has "misused public money."

Coalition members have charged that the Steering Council, established by the state Legislature last year to insure "Alaska's needs and future requirements" are made known to Congress, is spending nearly half of its \$1 million state budget in media projects which push the industry point of view.

Bitter

Southeast Alaska Empire, Juneau, Alaska,

Monday, February 20, 1978 — PAGE THREE

Particularly infuriating, they say, are two projects undertaken by the Steering Council: a 12-minute film on Alaska, and a statewide poll devised to survey opinion on the Alaska lands legislation.

At least one member of the Steering Council has gone public with his complaints about the inner workings of his group. In addition, at least two members of the Alaska Lands subcommittee believe the Steering Council has been pro-industry in its lobbying effort at the expense of the other — equally legitimate — points of views.

Against this backdrop, the Steering Council has lashed back at its critics, claiming they are performing the function they were created for: to represent the views of the people of Alaska.

"They (the Coalition) are just upset because we're showing a film to members of Congress that they think is pro-development," said Ron Birch, a high-powered Washington lawyer representing the Steering Council.

"Well, we think the film is neutral. They can't be the only ones that are right in this," he said in an interview.

"We think the goals of the Alaska coalition are compatible with ours," he added. I have tried to avoid stringent language and name calling."

The Alaska Coalition, however, sees nothing compatible about their goals and those of the council — and has not been shy about saying so.

"I'm an Alaskan taxpayer and I feel gypped. It's as simple as that," said Celia Hunter, executive director of the Wilderness Society, one of the coalition's member groups. "They're representing themselves, not the people of Alaska. That film is just so one-sided. It's a complete sales pitch

for the industry."

The 12-minute cassette film Steering Council lobbyists are carrying around to congressional offices was made by the Rowan Group Inc., a prominent San Francisco-based advertising firm.

The first few minutes uses what has become a common propaganda technique here: showing Alaska's beautiful and vast lands, indicating how they must be preserved. The remainder of the controversial cassette, however, subtly hints that Alaskans might be taken away from their land, and the need to preserve mineral development rights in Alaska.

Although Alaska legislators have thought the film to be pro-environment and Birch says the point is to show man can be compatible with the land, it has been viewed by several congressmen here as pro-industry and pro-development.

"I saw the film the other day and I told them I thought it was the essence of a pro-development push," said Rep. Paul Tsongas (D-Mass), a member of the Alaska lands subcommittee. "I think the developers could run away with this thing — there has to be a balance."

Another member of the Interior committee wishing not to be identified, thought the film to be "slick and back-handed. Well, if they were trying to give industry a big push, they certainly did a great job."

Tony Motley, a \$500-a-day lobbyist for Citizens for Management of Alaska Lands, a conglomeration of industry interests, said he thought the movie was pro-environment.

"My people who have seen the film are upset because they think it is definitely pro-conservation and anti-industry," said Motley.

"The Alaska coalition can't stand anyone who doesn't agree

with them," he added. "They're really a misnomer. They're not an Alaskan group, the Steering Council is."

The coalition was established in 1971 and includes a lobbyist on loan from about 15 environmental groups, including the Wilderness Society, the Sierra Club, Friends of the Earth and the Audubon Society. Although the coalition's projected budget is only \$15,000, that does not include dollars spent by the individual member organizations on the Alaska lands issue.

David Cline, the only environmentalist on the Steering Council, has also charged that the Steering Council did nothing to formulate state-wide consensus on the Alaska lands issue, and has instead created a "pro-development bias."

"The Steering Council likes to think of itself as a representative body but I'm not so sure that's true. No attempts were made to identify how Alaskans really feel about the (d-2) issue," said Cline, a member of the Juneau chapter of the Audubon Society.

"I think the Congressional hearings conducted throughout the state last year presented an accurate picture of what people think. People from all walks of life were able to come forward and say how they felt at that time. I thought the hearings should have been reviewed before we came out with our legislative position," Cline said.

"But instead," he said, "we had Mike Rowan conduct a poll at considerable expense that does not represent the total views of the Alaskans. Besides that, the council members formulated their position on the bill before the results of the poll were even in."

Rowan's direct-mail survey, sent to Alaskan households throughout the state, was based on the hypothesis that Alaskans want to see and experience the

state "but have not to date because of the time and money required as a result of the lack of direct access."

Although most of the questions are geared towards this hypothesis, an attorney for Birch's firm said the survey is meant to poll the state on the entire Alaska lands issue, not just the question of access.

Paul Luftsky, of Bill Hamilton Associates, a polling outfit in Washington, said "it is a good academic survey if they wanted to find out what people thought about getting around the state and traveling. But I question how legitimate it is if they are trying to find out what the whole state feels about a particular type of legislation."

Another sore point concerning the Steering Council's lobbying effort is the decision to recruit a high-priced law firm for the job.

"It would have been more effective if Congress could hear the voices of Alaskans instead of the most expensive lobbyist we could find," said Cline.

According to a copy of the Steering Council budget obtained by the Empire's Washington Bureau, \$100,000 will go to Birch's firm, and \$50,000 to the firm of former U.S. Senator Frank Moss.

Although Birch denies being aligned with industry interests, the controversy has been further aggravated with documents produced by environmentalists indicating Birch joined forces with Motley, the industry representative.

One internal memo, for example, shows Birch worked with Motley in refining a list of Congressmen to target for lobbying effort. The list was confined to "Congressmen who have shown some disinclination to vote along lines espoused strictly by the environmental movement."

Editorial

Historic Moment

A significant amount of Alaskan wilderness is almost "home-free." At no other time in our history has so complete a set of natural wilderness been considered for enduring legal protection. Completion of the ANCSA section 17 (d) (2) legislation will undoubtedly be the high point of our nation's efforts to protect natural ecosystems. This is true of the past, we know, because no similar amount nor variety of untrammelled land has passed into conservation systems. What is true for the past will also hold in the future for the simple reason that our nation possesses no other large tracts of wilderness for future protection.

Many other nations of the world possess high-quality wilderness areas, but it would be risky to postulate that they will successfully recognize the values of their unexploited land and successfully implement long-range preservation systems. The Berger Inquiry into the Arctic Gas Pipeline proposal aroused a welcome groundswell of wilderness appreciation in Canada, but less political awareness of the values of wilderness is apparent in most areas of South America, Africa or Asia. Therefore, Alaskan wilderness could become one of the crown jewels of world-wide natural ecosystem protection. That is, if the efforts of environmentally aware citizens and the US Congress come to fruit in 1978. This is a moment not to be lost.

The primary tactic employed by most detractors of the Alaskan National Interest Lands legislation is the call for a "compromise." This tactic has so far missed the important issues of the (d) (2) legislation and, therefore, little damage has been done. The momentum for favorable legislation is steadily gaining.

To "compromise" the (d) (2) issues is not a viable alternative because complete protection of the natural ecosystems in certain parts of Alaska is the compromise. The state has selected the most generous endowment of lands ever. Oil industry has developed Prudhoe Bay and has access to a number of other areas. The descendants of the first human settlers of Alaska, the Indian and Eskimo natives, have received a bountiful settlement of their aboriginal claims including title to a great amount of land. Others such as loggers, fishermen, guides, miners, farmers and all the rest have both feet in Alaska and show no signs of turning away. The surging economic development of Alaska is a well established fact.

The wilderness ecosystems of Alaska are, in turn, making their "claim" for a piece of the remaining land. The natural wild plants and animals are in fact the original colonizers of Alaska. These inhabitants have adapted themselves genetically

to this land and climate over millions of years and have made a success of their lives. The investment which industry has made in Alaska is minor compared to the investment the moose have made. The natural system is solar powered and converts some of that power into a most useful form of fuel for us all, oxygen. Alaska's wilderness will go on producing this as well as clean water, clean air, biologically diverse genetic materials, food, tranquility and the "Alaskan mystique" as long as the wilderness can survive.

Full protection for some good pieces of "the real Alaska" is the compromise of the day. Anything else would represent the ultimate in crass subrogation and could produce the eventual demise of the rich natural values which are presently abundant.

Another tactic of (d) (2) detractors is to attempt to invoke fear of a "lock-up." The reason that this has not worked either is that (d) (2) is based in hope, not in fear, and that "lock-up" is exactly the wrong term. Probably the closest we could come to the truth using such terms is "lock-open the land to foil those who would lock-up the resources." Wilderness is a place of freedom, there are no locks. Part of the locked-up society doesn't even know how to behave given such freedom; most would pick up 89 times more of anything that one needs, carry it away and either lock it up or take it to the Fairbanks Dump where scavenging is prohibited. If anyone has recently tried salmon fishing near a vacant oil tanker berth in Port Valdez, he will quickly discover the real meaning of "lock-up." Just your presence there (it doesn't really matter what you are or are not doing) would lead to your arrest. Such is the progress industry has handed us recently.

By contrast, the establishment of permanent federal protection for the natural ecosystems of Alaska, the (d) (2) legislation, will allow a wide variety of land uses by this and future generations of people of all nationalities. Alaska is a world resource. These uses will be restricted, however, to uses which will not diminish the natural values. Now perhaps we have arrived at the real substance of the (d) (2) debate. There are those who can and there are those who cannot conceive of their deriving any happiness from this world without significantly degrading their natural surroundings. For those who can, the legislation will provide a rich resource base.

Most importantly in this historic time, we wish the continued success to you wolverine and raptors, tu-tu and sic-sic, birch and lichens; for you will soon be guaranteed similar legal protection as humans and industry.

L. R. M.



ALASKA RANGE

Larry Mayo



RUTH GLACIER — McKINLEY SOUTH ADDITION

Larry Mayo

Friend or Foe?

OF SILLY SURVEYS

The award for the Silliest Survey Of The Season goes to the Rowen Group, Inc. and the Media Group of California. For the sum of \$74,000 from the Alaska state coffers Californians are going to tell congressmen how Alaskans feel about the (d) (2) National Interest Lands.

You see, The Groups have sent out a questionnaire to 500 selected residents of the state after already being sure of the results.

In a memorandum dated Oct. 8, 1977, to the Steering Counsel the Rowan Group stated: "The concept is to gather irrefutable data about the experience of the Alaskan people in seeing and experiencing their own state including national parks. Our hypothesis is that Alaskans move to the state to enjoy its rugged environment, want to see and experience all of it, but have not to date because of the time and money required as a result of the lack of direct access . . . this hypothesis will be proven out by the study." The TV spots, "hopefully moderated by Lowell Thomas, Sr., will be quite effective since the Alaskans we select will fit the American dream of what real frontier Alaska is all about.

The survey asks the informant how many of Alaska's 320 communities, how much of Alaska's 300 million acres, and how many of existing and proposed national parks he has visited. Also, "name any wildlife refuge system you have hunted, fished or entered for that purpose in the past year."

Then there are the "when-did-you-stop-beating-your-wife?" type questions, like do you want development of Alaska's oil, gas, minerals, and timber without despoiling its natural environment; or to preserve its habitat for undisturbed nature, the migratory wildlife, recreation and scenic values without despoiling its economy?

Absurd? Yes, but scary, too, when you stop to think that

the decisions made in government, the candidates we elect, the opinions we form are largely shaped by the propaganda media "Groups" up for hire by whomever has the money.

Now wouldn't you think that after all the rhetoric that flowed at Ketchikan, Juneau, Sitka, Anchorage and Fairbanks last August, to say nothing of the hearings Rep. Udall and Seiberling also held in bush communities that both Congress and the Steering Committee would already have a pretty fair sampling of Alaskan's opinions?

Everyone who wanted to testify had his day. Hundreds of Alaskans told it like they saw it, from angry loggers and miners, angrier sports hunters, self-serving businessmen and rambling politicians to articulate Natives, ardent preservationists and bearded drop outs from the bush. If you were a Big Shot you could have all the time you wanted. Us "little people" got cut off at two minutes. But everyone had his turn, and it's all taped for the public record. Of course the testimony wasn't exactly what our Alaskan representatives in Washington, CMAL and Kennicott Copper wanted to hear. Except at Sitka, now almost a company town (Japanese owned Alaska Pulp Co.) where workers were let off to testify provided they came out against protecting (d) (2) lands, the dominant message was loud and clear — "don't let exploitation and development spoil the wilderness, endanger the wildlife or ruin our Alaska life style."

Apparently the Steering Committee has also chosen to overlook the survey of Alaskan opinion which the State paid for two years ago. A map of Alaska showing the state administration proposal of that time was published in all major newspapers statewide along with a series of questions aimed at bringing forth citizen appraisal of the (d) (2) questions.

Federal-State
Land Use Planning Commission
For Alaska

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

March 25, 1977

MEMORANDUM

TO: Commission

REVIEWED BY: John W. Katz, ~~Counsel~~ *[Signature]*

FROM: Liz Matthews, Legal ~~Extern~~ *[Signature]*

SUBJECT: What Impact Can the Federal Regulation of Public Lands
Have on Adjoining State and Private Land Use?

This survey memorandum will examine: (1) the constitutional basis of the Clean Air Act and the Federal Water Pollution Control Act; (2) certain substantive requirements of these Acts; (3) State regulation of Federal lands; and (4) State regulation of private lands. One purpose of this survey is to explore the interrelationship between the designation of areas pursuant to Section 17(d) (2) of the Settlement Act and the use of adjoining State and private lands. In addition, other aspects of the regulatory regime affecting Federal, State, and private lands will be briefly examined.

Constitutional Basis

Congress has power over Federal lands as both proprietor and legislature. The "Property Clause" of the Constitution expressly delegates power to Congress over Federal territory and property:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."1/

By reason of the Supremacy Clause, no state may interfere with the exercise of this power by Congress:

"This constitution and the laws...which shall be made in pursuance thereof...shall be the supreme law of the land; and the judges in every state shall be bound thereby...."2/

The Supreme Court has repeatedly interpreted the Property Clause as a complete and unfettered grant to the Federal government of jurisdiction over the public lands.^{3/} A state may not interfere with or inhibit any use which the Federal government may lawfully make of its lands. In fact, to protect its use of Federal lands, the Federal government may even exercise substantial control over the property of others. It may prohibit the erection of fences on private land.^{4/} A railroad traversing Federal land need not comply with a state fencing law if such a fence would interfere with Federal use of the land.^{5/} A Federal law making the lighting of fires on private land adjacent to Federal forest lands a penal offense has been upheld.^{6/}

Congress derives its legislative power over Federal and nonfederal lands partly from a combination of the Commerce Clause and the Supremacy Clause. Because of the far-reaching nature of pollution legislation, the Federal Water Pollution Control Act ^{7/} and the Clean Air Act ^{8/} are prime examples of the exercise of this power. For years, the mainstay of Federal water pollution control was the Rivers and Harbors Act of 1899, ^{9/} under which regulatory jurisdiction was limited to waters deemed "navigable." The concept of navigable waters was given a fairly narrow definition within the context of determining title to submerged lands. Since much of 19th century interstate commerce was by water, it was an early enunciated principle that the commerce power necessarily included the power to regulate navigation.^{10/}

This 19th century concept of "navigation" lingered in Commerce Clause legislation until passage of the Federal Water Pollution Control Act of 1972. The Act employs the term "navigable waters," but it defines such waters as "waters of the United States." The Fifth Circuit Court of Appeals in Zabel v. Tabb ^{11/} stated "...the destruction of fish and wildlife...does have a substantial effect on interstate commerce...." and in United States v. Holland,^{12/} the District Court, after extensive analysis of the legislative history of the Act, concluded that it was the intent of Congress to break away from the Rivers and Harbors Act and legislate directly under the Commerce Clause power:

"Congress has widely determined that Federal authority over water pollution properly rests on the Commerce Clause and not on past interpretations of an Act designed to protect navigation. And the Commerce Clause gives Congress ample authority...."^{13/}

The original 1955 version of the Clean Air Act contained language which seems addressed directly to the Commerce Clause:

"The predominate part of the nation's population is located in its...urban areas, which...often extend into two or more states...."^{14/}

That air pollution has an effect upon commerce, and hence can be validly regulated by Congress under the Clean Air Act is clear.^{15/} Most of the cases center on implementation and enforcement. In Commonwealth of

Pennsylvania v. EPA,^{16/} the court found that requiring Pennsylvania to establish transportation controls and systems, such as inspections and maintenance programs, bikeways, car pools, busways, and on-street parking restrictions, was a valid exercise of the commerce power and did not unconstitutionally infringe on the state's sovereignty or the principle of federalism:

"...there can be little doubt that Congress intended sweeping changes to be made in transportation and land use policies where that was necessary to achieve air quality standards...."^{17/}

The Environmental Protection Agency's promulgation of transportation controls that restrict use of off-street parking spaces and regulate construction of new parking facilities does not constitute an unconstitutional taking of the parking facility operator's property:

"The garage owners may argue that it is as if the government had taken title to 40 percent of their spaces; it would matter little if thereafter the government kept the space idle...or found some other use for it. However, the government has not taken title to the spaces and the decision about alternative uses of the space has been left to the owner. The taking clause is ordinarily not affected by regulation of uses, even though the regulation may severely or even drastically affect the value of the land or real property. If the highest-valued use of the property is forbidden by regulations of general applicability, no taking has occurred so long as other lower-valued, reasonable uses are left to the property's owner...."^{18/}

SUBSTANTIVE REQUIREMENTS OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Clean Air Act

In Sierra Club v. Ruckelshaus,^{19/} the District Court construed § 101(b) of the Clean Air Act:

"To protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population."^{20/}

The court found that

"on its face, this language would appear to declare Congress's intent to improve the quality of the nation's air and to prevent deterioration of that air quality, no matter how presently pure that quality in some sections of the country happens to be...."^{21/}

Pursuant to court order in Sierra Club v. Ruckelshaus, the Environmental Protection Agency promulgated regulations designed to prevent "significant deterioration" of air quality in areas where air is already cleaner than

the national standards.^{22/} These regulations employ a classification scheme under which areas may be designated as class I, II, or III. Generally speaking, a class I designation means an area with no development permitted; class II permits moderate development; and class III permits general development. All areas are initially class II, which would allow a certain amount of increase in sulfur dioxide and particulate matter. State land, Federal land, or Indian territory may be redesignated class I after a public hearing and an application to the Administrator of EPA. Designation as class I implies an area of very clean air in which practically any increase in air pollution would be considered significant deterioration. Since Federal land managers of class I lands could prohibit activities on adjoining lands if such activities might degrade the air quality over the Federal area, these regulations could have great restrictive impact on private and state landowners whose holdings are contiguous to such Federal lands.

The applicable regulations ^{23/} contain the following significant features regarding the procedure for effecting a redesignation:

1. at least one public hearing must be held at or in the area affected;
2. other states, Indian governing bodies, and Federal land managers whose lands may be affected must be notified at least 30 days prior to the public hearings;
3. the proposed redesignation must be based on the record of the hearing, which must include consideration of: (a) growth anticipated in the area; (b) the social, environmental, and economic effects of such redesignation on the area and on other areas and states; and (c) the impact of the proposed redesignation on regional or national interests; and
4. any proposed redesignation which is protested to the Administrator of the Environmental Protection Agency will be approved only if he determines that the redesignation appropriately balances the considerations referred to in number 3.

The constitutionality of these regulations was upheld in Sierra Club v. EPA,^{24/} and the case is presently on appeal to the U.S. Supreme Court. In Sierra Club v. EPA, the Court of Appeals found that although prohibition of significant deterioration of air cleaner than the national standards is not an express requirement of the Clean Air Act, the legislative history of the Act expressed a policy of nondeterioration. The court also found that the EPA acted within the discretion granted it in choosing this manner of preventing significant deterioration of air quality:

The need to prevent significant deterioration of air cleaner than the national standards, and the statutory authorization therefor, was settled by the Sierra Club v. Ruckelshaus litigation."25/

The state government and the industrial petitioners had protested that this authority violates the delegation to the states of authority over air quality within their boundaries, as provided in § 101(a)(3) and § 107(a) of the Clean Air Act, and that the authority to redesignate can create a tremendous impact on neighboring areas which might be hindered in their development because of designation of Federal lands as class I areas. The court declined directly to address the latter point:

"We pretermitt this question, as we find that the issue is not yet ripe for review. No Federal or Indian land has yet been redesignated, and to that extent we cannot be certain how a conflict may evolve...we note that reservation of power to Federal land managers and Indian governing bodies should have no effect on present conduct; there appears to be no reason why economic development of any area should be hindered by the possibility that a nearby area may be redesignated in the future to a more restrictive classification. We therefore do not foresee any irreparable injury which may arise from deferral of this question until it arises in a more concrete context."26/

Yet, many are concerned about the possible hinderance of economic development. In Alaska, 83 million acres have been proposed by the Secretary of the Interior for inclusion in one of four Federal land systems. Other (d)(2) bills have also been introduced. In addition, several units of the Federal land systems already exist. Under the present regulations, some of these lands could be proposed for class I designation, which, depending upon wind conditions and other factors, could preclude development on nearby Native and State lands. Some argue that such a prohibition would defeat the purposes of the Alaska Native Claims Settlement Act and the Alaska Statehood Act by depriving Native groups and the State of the economic use of lands granted them.

Two possible solutions to this problem have been proposed in the form of amendments to the Clean Air Act.* One proposed amendment would class all existing Federal lands as class II, but would permit the governor of the affected state, after public hearings and other procedural safeguards, to reclassify particular lands to a higher classification if desired. A second proposal specifically regarding (d)(2) lands is to allow Congress rather than the EPA to classify areas on a unit-by-unit basis. A third solution, which involves the pending (d)(2) legislation instead of the Clean Air Act, calls for the establishment of buffer zones around class I parks and refuges. Such buffer zones would be of a lower classification than the adjacent core areas.

* A number of other proposed amendments to the Clean Air Act also deal with air quality standards for parks, wilderness areas, and other Federal land classifications. Because of the rapid changing legislative situation in Congress and because we have not yet received copies of all the proposals, I have confined my summary to the two discussed below.

Federal Water Pollution Control Act

The objective of the Federal Water Pollution Control Act is:

"to restore and maintain the chemical, physical, and biological integrity of the nation's water. In order to achieve this objective, it is hereby declared that... it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985...."27/

This is to be achieved through the adoption by individual states of water quality standards which the Administrator of the Environmental Protection Agency has determined meet the criteria of the Act.28/ In this regard, 40 C.F.R. § 130.17 provides:

"The state shall hold public hearings for the purpose of reviewing water quality standards and shall adopt revisions...at least once every three years and submit such revisions to the appropriate regional Administrator... existing high quality waters which exceed those levels necessary...shall be maintained and protected... additionally no degradation shall be allowed in high quality waters which constitute an outstanding national resource, such as waters of national and state park and wildlife refuges and waters of exceptional recreational or ecological significance...."29/ (emphasis supplied)

Thus, depending upon the classification, the (d) (2) lands could have a great effect on the use of adjacent State and private lands.

STATE REGULATIONS OF FEDERAL LANDS

Federal Supremacy { At the same time, the states have certain powers to regulate Federal lands within their borders. Since the memorandum to the Commission entitled, "State Police Power Jurisdiction on Federal Lands"30/ examines this subject in detail, I will confine my examination to certain matters involving the Clean Air Act, the Federal Water Pollution Control Act, and the Solid Waste Act. With respect to the first two laws, Executive Order 11752, § 1 (1973) specifically states that all Federal facilities must comply fully with state and local "substantive" regulations, but that in light of the Supremacy Clause, such facilities need not comply with state and local "administrative procedures". The doctrine of sovereign immunity and the Supremacy Clause do not allow suit to compel Federal facilities to obtain state permits, although in other respects such facilities must comply with state regulatory plans. This permit exemption applies even though the only method of enforcement under a state's plan is through the permit system.31/

↓ In further regard to the doctrine of sovereign immunity, the Clean Air Act specifically provides:

✓ "...each...instrumentality...of the Federal government having jurisdiction over any property...in the discharge of air pollutants, shall comply with Federal, state, interstate, and local control and abatement of air pollution to the same extent that any person is subject to such requirement...."32/

But in construing this section, the court in Greater Anchorage v. Johnson 33/ found that although Congress had waived sovereign immunity, this waiver did not extend to criminal prosecution of Federal employees.

On June 2, 1976, the U.S. Supreme Court handed down two related decisions applying the principles discussed in this section. "Federal installations are subject to state regulations only when and to the extent that Congressional authorization is clear and unambiguous...."34/ and neither the Clean Air Act nor the Federal Water Pollution Control Act showed "clear and convincing" Congressional intent to subject Federal installations to permit requirements.

However, the Federal Resource Conservation and Recovery Act of October 21, 1976 ("Solid Waste Act")35/ states that in regard to solid waste disposal, Federal agencies must comply with all state and local requirements, including any permit requirements, and that Federal personnel are not exempt from any sanction including criminal penalties. The Solid Waste Act emphasizes that "...the collection and disposal of solid waste should continue to be the function of state, regional, and local agencies...."36/ Under § 18.60 of the Alaska Administrative Code, only a few categories of users, for example, farms, may operate a solid waste disposal facility without a permit.

STATE REGULATION OF PRIVATE LANDS

Of course, it must be emphasized that in most cases, the state is still the primary regulator of private land use. The law of zoning is the most classic example of this type of regulation. In Alaska, boroughs are to provide for planning, platting, and zoning on an areawide basis. (The legislature acts as the assembly for the unorganized borough. Zoning authority for unorganized areas has been delegated by the legislature to the Director of the Division of Lands.) A borough planning commission, consisting of local residents, is to prepare and recommend to the assembly (1) a comprehensive plan for the systematic development of the borough and (2) a zoning ordinance to implement the plan.37/ In accordance with the comprehensive plan, the assembly shall regulate and restrict the use of land and improvements by district. Such zoning regulations may include, but are not limited to, restriction of land use, building location and use, the height and size of structures, the number of stories in buildings, the percentage of the lot which may be covered, the size of open spaces, population density and distribution, and all other regulations which may be necessary.38/

Another important example of state regulation of private and governmental land use occurs under the Anadromous Fish Act.39/ The Act provides that

all rivers, lakes, and streams which are specified by the Fish and Game Commissioner to be important for the spawning or migration of anadromous fish are to be protected:

"If a person or governmental agency desires to...use, divert, obstruct, pollute, or change...a specified river, lake, or stream, or to use wheeled, tracked, or excavating equipment... the person or governmental agency shall notify the commissioner... before the beginning of the construction or use....If the commissioner determines...he shall...require...full plans... and specifications for the proper protection of fish and game in connection with the construction or work...and shall require the person or governmental agency to obtain written approval from him as to the sufficiency of the plan or specifications before the proposed construction or use is begun."40/

Footnotes

- 1/ U.S. Const., Art. IV, § 3, cl. 2.
- 2/ U.S. Const., Art. VI, cl. 2.
- 3/ United States v. San Francisco, 310 U.S. 16, 84 L. Ed. 1050 (1940); McKelvey v. United States, 260 U.S. 353, 67 L. Ed. 301 (1922); See "Power of the Federal Government to Regulate State-owned Submerged Lands," memorandum to the Federal-State Land Use Planning Commission for Alaska, Lee D. Morrison, Legal Extern, December 7, 1976.
- 4/ Camfield v. United States, 167 U.S. 518, 42 L. Ed. 260 (1897).
- 5/ Anderson v. Chicago & N.W. Ry., 168 N.W. 196 (Neb. Sup. Ct. 1918); United States v. Unzeuta, 281 U.S. 138, 74 L. Ed. 761 (1930).
- 6/ United States v. Alford, 274 U.S. 264, 71 L. Ed. 1040 (1927).
- 7/ 33 U.S.C. 1251 et seq.
- 8/ 42 U.S.C. § 1857 et seq.
- 9/ 33 U.S.C. § 403, 407.
- 10/ Gibbons v. Ogden, 22 U.S. 1, 6 L. Ed. 23 (1824).
- 11/ 43 F. 2d 199, 204 (5th Cir., 1970).
- 12/ 6 E.R.C. 1388 (1924).
- 13/ Holland, supra., 1395.
- 14/ 42 U.S.C. § 1857.
- 15/ United States v. Bishop Processing Co., 287 F. Supp. 624 (D. Md. 1968), Katzenbach v. McClung, 379 U.S. 294, 13 L. Ed. 2d 290 (1964).
- 16/ 6 E.R.C. 1769 (1974).
- 17/ Pennsylvania v. EPA, supra., p. 1776.
- 18/ South Terminal Corporation v. EPA, 6 E.R.C. 2025, 2044 (1974).
- 19/ 344 F. Supp 253, 4 E.R.C. 1205 (1972).
- 20/ 42 U.S.C. § 1857(b)1(a).
- 21/ Ruckelshaus, supra., p. 1206.
- 22/ 40 C.F.R. § 52.21.
- 23/ 40 C.F.R. § 52.21(c) (3) (1976).

- 24/ 9 E.R.C. 1129 (1976).
- 25/ Sierra Club v. EPA, supra, p. 1144.
- 26/ Sierra Club v. EPA, supra, p. 1148.
- 27/ 33 U.S.C. 1251, as amended.
- 28/ 40 C.F.R. 120.1, 120.10.
- 29/ 40 C.F.R. 130.17(a), (e) (2).
- 30/ "State Police Power Jurisdiction on Federal Land," memorandum to the Federal-State Land Use Planning Commission for Alaska, Steve Silver, Staff Attorney, September 20, 1976.
- 31/ Ruckelshaus, supra, p. 1645.
- 32/ 42 U.S.C. § 1857f.
- 33/ 6 E.R.C. 1989 (1974).
- 34/ Environmental Protection Agency v. California, 8 E.R.C. 2093 (1976); Hancock v. Train, 8 E.R.C. 2100 (1976).
- 35/ 42 U.S.C. § 6901 et seq.
- 36/ 42 U.S.C 6901(a) (4).
- 37/ A.S. § 29.33.080.
- 38/ A.S. § 29.33.090.
- 39/ A.S. § 16.05.870.
- 40/ A.S. § 16.05.870.

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ALASKA GEOGRAPHIC



WILDERNESS PROPOSALS

— which way for Alaska's lands?

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Cover — The raw Arrigetch Peaks in the Brooks Range and the clam-digging beach at Clam Gulch on the Kenai Peninsula exemplify areas where one would, and would not, want to take a truck. Right — Seal hunting at Cape Krusenstern. (Cover and page 1 National Park Service photos by Robert Belous; cover inset photo by Neil and Elizabeth Johannsen.)



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To teach many more to better know and use our natural resources

ALASKA GEOGRAPHIC

VOL. 4, NO. 4, 1977

WILDERNESS PROPOSALS

Which way for Alaska's lands?

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CartoGraphics by Jon Hersh

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Washington State business-labor interests and national resource-dependent industries have joined Alaskans in mounting a WETA-Washington administered action project to counter the grandiose wilderness scheme of the national preservationist groups.

Shortly after the Seattle Alaska d-2 hearing, a WETA-Washington ARCTIC Committee (Alaska Resource Committee To Influence Congress) was formed to communicate the natural resource, energy, mineral and job tradeoffs at stake in the Alaska National Interest Lands (d-2) issue.

Larry Keenan, Project Coordinator, prepared an analysis of the 46 members of the House Interior and Insular Affairs Committee. From this analysis, 26 Congressmen and their "home" districts were selected for the attention of Project ARCTIC.

The project centered around WETA-Washington member labor and business counterparts within the 26 Congressional Districts. Between August 15th and September 2nd, meetings were held in 17 cities in 13 states, reaching 18 Congressional Districts.

In each city, counterparts

from Building Trades Councils, Carpenters, Operating Engineers, Electricians, AGC Chapters, etc., met with Larry Keenan to hear and discuss the Alaska d-2 lands issue.

The result of these meetings has been unanimous support through resolutions, position papers, etc., to: (1) limit the

Congressional d-2 Act to 80 million acres; (2) protect land selection rights and benefits of Alaska Natives and the State of Alaska; (3) provide a generous allocation of multiple use lands; and (4) endorse the need of land use studies and mineralogical surveys as "guides" to Congressional land

allocation.

ARCTIC is intended to allow another segment of the public, and another aspect of the Alaska d-2 lands issue, to be considered by the Congress.

The contact phase of ARCTIC will conclude with a Montana, Wyoming and California trip in late October.

WETA ARCTIC Project Brings D-2 Issue "Home"

Alaska Wilderness Scheme Sidetracked by WETA Members

The best laid plans of national preservationists groups to make Seattle just another stop of their "Alaska Wilderness Express" were derailed by WETA-Washington members and concerned resource spokesmen at the June 18th National Interest Lands (d-2) hearing.

Wilderness advocates piled off buses from Oregon, Washington, Idaho, and California confident that they would dominate the Seattle hearing as they had in Washington, D.C., Chicago, Atlanta, and Denver. They were met on the sidewalk of the Federal Building by over two dozen picket signs opposing HR 39, the preservationist Alaska wilderness proposal. Inside the building they were shocked by the posted registration of 583 (490 WETA-Washington) representatives opposing "HR 39," out of the total 1,200 registrants.

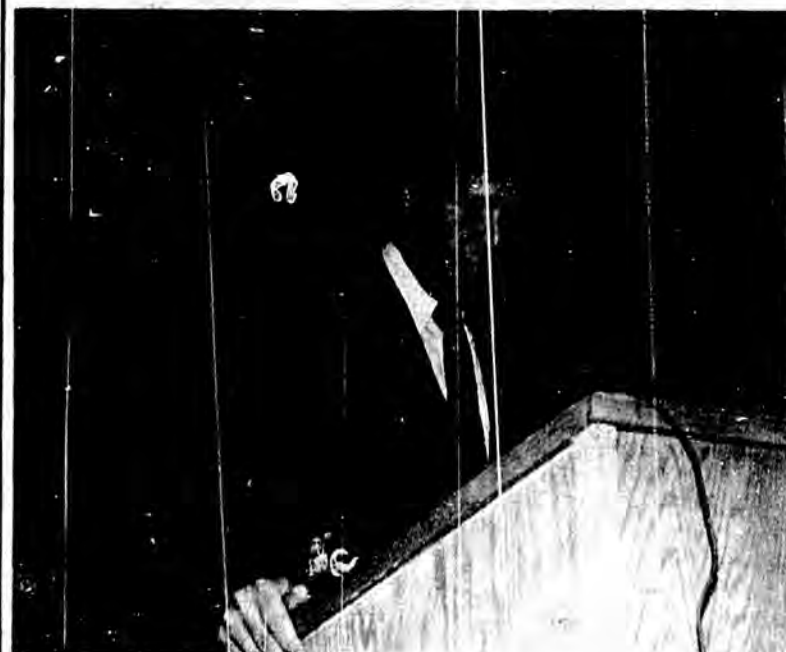
The Subcommittee on General Oversight and Alaska Lands selected Seattle as a regional hearing site for public involvement prior to the Congressional setaside of Alaska Federal lands as Parks, Wildlife Refuges, Wild and Scenic Rivers, and National Forests.

This Congressional activity stems from the Alaska Native Claims Settlement Act (ANCSA) of 1971 which granted Alaska Natives selection rights of 44 million acres of Alaska Federal land to establish a noncontested right of way for the Prudhoe Bay-Valdez Alaska Oil Pipeline. A provision of ANCSA, Clause d-2, authorized the setaside of up to 80 million acres as National Interest Lands to benefit all Americans in the land use forms of National Parks, Wildlife Refuges, Wild and Scenic Rivers and National Forests.

Proposals to satisfy the "d-2" provisions range from the Alaskan's "go slow" approach of joint state-federal supervision requiring more thorough study of lands prior to formal dedication, to the "instant wilderness" of as much as 146 million acres as proposed by the preservationists' bill, HR 39. To apply some perspective to these figures, 146 million acres represents an area larger than the States of Washington and California combined.

The Chairman of the Alaska Lands Subcommittee, Congressman John F. Seiberling, Democrat-Ohio, a cosigner of HR 39, was very tolerant at the hearing of pro-wilderness testifiers and songsters, while being short and demanding of those testifying in opposition to HR 39.

In response to testimony by a business/labor panel at 7:00 p.m., Seiberling announced that "jobs is a phony issue on HR 39; labor has been sold a bill of goods by management." His remarks were countered by Morris D. "Whitey" Langberg, Business Manager of Operating Engineers Local 888, Clyde Hunt, Pierce County Labor Council, Ralph Spore, Laborers Local 252, and Carl



Congressman Norman Dicks delivers a report from Washington, D. C. to the Red Tape Seminar luncheon crowd.

WETA-Washington Red Tape

Langberg presented the Chairman with a letter proclaiming "HR 39 is An Environmental Octopus," while Mr. Spears explained to the Ohio legislator that his members must have energy resource availability and land use flexibility to make environmental improvements needed by the public. Carl Williams corrected Selberling's "no jobs will be lost" statement by saying his local had sent him to testify against HR 39, and "If I were not here to oppose HR 39, my members would put me out of a job." Clyde Hupp advised, "my contacts within management are constantly reminding me (Hupp) that they cannot sell labor anything."

Representatives of oil and mining interests who had followed the national hearings said that the Seattle hearing was the first opportunity to present their information for the Congressional Record. "In Chicago and Denver we were limited to two (2) minutes each. Then we were questioned on our credentials, which occupied the bulk of our allotted time."

The Seattle hearings represented WETA spokesmen whose activities affected the entire spectrum of Washington's economy, and provided the Congressional Record with evidence of Alaska's resource and economic impact on Washington, and on the U.S. economy.

SEMINAR CHALLENGES REGULATIONS

Spokespersons representing government and industry presented important insights into national, state, and local regulations affecting land, residential, and commercial development at the Red Tape Seminar sponsored by WETA-Washington and the Washington Land Use Association.

Assembling in Bellevue August 24th, developers, government officials, legislators, and labor and business representatives heard a series of presentations by experts regarding the promises and perils of laws, regulations, and procedures affecting development activities.

The seminar was keynoted by John Thompson, Georgia-Pacific, who addressed national and local land use control legislation.

The morning program was highlighted by an ingenious presentation simulating an actual project relating the real world legal complexities of completing a successful project. The panel consisted of Chuck Blumenfeld, Bogle & Gates; Jon Schneidler, Cartano, Botzer & Chapman; Stan Schultz, Fish & Schultz; and Bill Vetter, Attorney at Law.

Closing the morning session was a down-to-earth presentation by representatives of the Washington Real Estate Licensing Division, Ethel Williams and Lawrence Kirchoff.

The featured luncheon guest speaker, Congressman Norman Dicks, addressed a packed luncheon crowd, and related his activities in Washington, D.C., on behalf of his constituents in the area.

Another unique part of the seminar heard a panel of "real live" developers, Benjamin Clifford, Lake Tapps Development Company; Dave Morris, Purdy Realty; Jack Swanson, Pacific Lands Associates, and Larry Wieber, Ponderosa Northwest, Inc., tell it like it is. They related the difficulties and challenges of bringing a project from an idea to fruition in today's regulated world. They also presented practical advice to the audience on the art of successful development.

From Washington, D.C., Alan J. Kappeler, Associate Administrator, Department of Housing and Urban Development, presented the agency's views on development regulations, and described the reasons for some of the actions of HUD.

Mr. Kappeler's presentation generated the greatest quantity of questions, and stimulated extensive discussion.

Wrapping up the session was a success story. Doug Gray and Ron Buzard held the attendees spellbound in describing the extraordinary success of The Glen at Maple Falls, and described all the correct ways of achieving a successful and profitable project.

Copies of the Red Tape Seminar Summary will make a valuable addition to the library of anyone who is concerned with or interested in development. For a copy of the Summary, send a request for "The Red Tape Seminar Summary", along with a check for \$3.50 (for actual printing and mailing costs), to the WETA-Washington office.



No-growth advocates, imported by the busload from as far away as California, were greeted by a WETA-Washington demonstration as they entered the Federal Building in downtown Seattle to attend Congressman Selberling's Alaska d-2 land hearing. Pictured above, in earnest discussion no

doubt, are, left to right, John Murphy, Operating Engineers Local 302, Tony Motley, CMAL; Ralph Spears, Laborers' Local 252; and Morris D. "Whitey" Langberg, Operating Engineers Local 302. (Photograph courtesy of the Seattle Times.)



The featured panel enjoyed spaghetti and politics. Seated, left to right, are: **Dr. Gene L. Woodruff**, University of Washington; **Professor David Bodansky**, University of Washington; **Bruce Wood**, Westinghouse Campus America; **Jack Vanderbeek**, Grays Harbor PUD Commissioner; **Chuck Witt**, Laborers Local 374; **Bob Dilger**, Washington State Building & Construction Trades Council; **David Jenkins**, Special Assistant to Governor Dixy Lee Ray; and **Charles T. Keenan**, WETA-Washington.

Celebration!

A good time was had by all September 25th in Aberdeen. Three hundred citizens enjoyed spaghetti, music, and speeches during an event celebrating 20 years of safe use of nuclear power to generate commercial electricity in the United States.

Sponsored by the **Citizens For Energy & Jobs**, an ad hoc committee of WETA-Washington, the Celebration marked the beginning of on-going activities by citizens to support needed energy production, and the jobs and growth which result from adequate energy supply.

While kiddies were playing with balloons, and volunteers were dishing out spaghetti and all the trimmings, a battery of featured speakers presented facts and figures regarding the need for energy, conservation, safety, and the many other factors and issues surrounding energy production.

Guest speakers included **David Jenkins**, Special Assistant to Governor Dixy Lee Ray; **Professor David Bodansky**,

University of Washington; **Dr. Gene Woodruff**, University of Washington; **Bob Dilger**, State Building and Construction Trades Council; **Bruce Wood**, Westinghouse Campus America Program; **Chuck Witt**, Laborers' Local 374; **Jack Vanderbeek**, Grays Harbor PUD Commissioner; and **Charles T. Keenan**, WETA-Washington.

Following the program, a lively question and answer period proceeded well into the afternoon. The speakers, sitting as a panel, fielded a battery of questions by some 20 to 30 members of the Crabshell Alliance who attended the Celebration. The question and answer period was so well received by all involved, that plans for a future seminar on energy will be discussed by the Grays Harbor area Citizens For Energy & Jobs Committee. The location of the Celebration was near the site of the Washington Public Power Supply System's #3 and #5 planned nuclear generating facilities at Satsop.

Raise High Ross Dam

In the late 30's, when High Ross Dam was designed and built on the Skagit River, everyone was gratified, including the Canadians, into whose territory

Paralleling efforts to raise High Floss Dam is an effort by members of the City Council to negotiate with the Canadian government a contract to provide an amount of electricity equivalent to that which would be generated by the Ross Dam expansion.

The WETA-Washington Board of Directors reaffirmed its





Three hundred attendees partake of **Joe Tolomel's** famous spaghetti recipe, served by the WETA-Washington Citizens For Energy & Jobs crew.



A receptive crowd heard a battery of speakers discuss energy, jobs, etc., at the September 25th Celebration. **Dr. Gene Woodruff** makes a point while **David Jenkins** (left) and **Charles T. Keenan** contemplate Dr. Woodruff's comments.

up. People then and now also applauded City Light's forward-looking design. The dam was structured to be raised in the future for added capacity, the rights of way carrying the power into the Seattle area were also designed for future use, and an agreement was signed with the Canadian government to assure permission to contain the added water necessary to generate the electricity which the larger dam would obviously generate.

Caught in the hysteria of the mid-70's environmental backlash, High Ross became an issue more in style than in substance. Canadian and American protestors generated well publicized opposition to the Ross Dam expansion, claiming that wildlife habitat would be irreparably destroyed.

At the same time, opponents to High Ross generated and then exploited the issue as an American grab for Canadian resources. Though the ploy was discounted by the more enlightened observers of the international political scene, it did succeed in stampeding the British Columbia provincial government into supporting abatement of the American-Canadian agreement.

Meanwhile, back in Seattle, the Energy 1990 Study resulted in an ambitious conservation policy, which all but assured that future electric energy needs would be "generated" by various conservation means.

With the realities of a drought upon us, and faced with the spiraling cost of electricity obtained by other sources, there is renewed interest in raising High Ross Dam and obtaining the electricity which an expanded facility could generate.

Dam. The Board considers flooding 5,710 acres to be not irreparable damage to wildlife habitat, but a small and reasonable price to pay for added power resources, and for the added assurance that industry will be able to maintain its production and thus provide needed employment.

The Board also supports Seattle City Light's conservation efforts, and approved WETA-Washington's continued and vigorous activities in promoting conservation throughout the state.

Permit Process Charted

On the theory that lawmakers don't always appreciate the regulatory impact of their legislative decisions, WETA-Washington has embarked on a project named Federal Regulations Analysis Project (FRAP).

FRAP is the analysis and schematic representation of permit processes related to specific actions such as developing a housing project, constructing a highway, preparing a timber harvest, etc.

Phase I of FRAP, which is being initially sponsored by the **National Forest Products Association** (NFPA), addresses the regulatory process pertaining to building a logging road from a shoreline area, through federal timber, and into a forest product firm's private timber stand. The process includes the procedures of a Corps of Engineers Section 404 Dredge and Fill Permit, the State Forest Practices Management Act, the

(Continued on Page 8)

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Description: map of Alaska

SENATE COMMITTEE RECOMMENDATION

ALASKA, National Interest Lands, H.R. -39 in the Nature of a
Substitute as Reported by Senate Committee on Energy and Natural
Resources , October 1978

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Description: Map

Alaska Map E

H.R. 39 as Passed by the Senate, August 19, 1978
(corrections made in 12-10-80)

TESTIMONY OF
ESTHER C. WUNNICKE
FEDERAL CO-CHAIRMAN
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION
FOR ALASKA
BEFORE THE
COOPERATIVE MANAGEMENT PANEL
HOUSE COMMITTEE ON
MERCHANT MARINE AND FISHERIES
SUBCOMMITTEE ON
FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT
WASHINGTON, D.C.
FEBRUARY 23, 1979

Mr. Chairman and members of the Committee, my name is Esther Wunnicke. I am Federal Co-Chairman of the Joint Federal-State Land Use Planning Commission for Alaska. The Joint Federal-State Land Use Planning Commission for Alaska was created in Section 17 of the Alaska Native Claims Settlement Act and by legislation of the State of Alaska. My comments are made within the context of the process of land use planning for Federal, State, and Native lands which the Commission was instructed to do by the Congress and by the Alaska Legislature.

In addition to having functioned as a joint Federal-State body in Alaska for the last seven years, we have given a great deal of thought and attention to the structure, powers, and mandate of a succeeding body to provide necessary statewide focus and coordinative programs in Alaska for the years to come.

Conscious of the fact that the Joint Federal-State Land Use Planning Commission for Alaska terminates on June 30, 1979, we have attempted to establish cooperative institutions that will carry on after our closure irrespective of congressional action.

A State-Federal Transportation Planning Organization has been created and in operation for two years. We have developed the Alaska Resource Information System to coordinate various data systems, mapping, remote sensing, and the other technical aspects of land use planning. We have continued efforts to establish a stronger regime for cooperative wildlife management in Alaska on a scale commensurate with the future needs in that area.

We have been working closely with the ad hoc Land Manager's Task Force formed by an agreement between Secretaries of Interior and Agriculture, the Governor of Alaska, and the President of the Alaska Federation of Natives to assure that the efforts of that group are coordinated with the efforts of the cooperative institutions referred to above. The ad hoc Land Manager's Task Force is a good example of what can be done by mutual agreement but, it lacks separate funding, staff, and a formalized institutionalized relationship with other major elements of land use planning in Alaska.

Another approach is the creation of a permanent Federal-State Commission with broad statewide planning and advisory responsibilities as well as classification authority. Despite our recommendation that each government would have veto over decisions affecting its own lands, there has been a great deal of apprehension on the part of land managers and others that the creation of such a commission and giving it classification authority would be an invasion of the sovereignty, particularly of the Federal

Government, including the plenary authority of the Congress to deal with Federal lands. Yet, considerable discretion to make classifications, and even disposal, of Federal lands has always been delegated by the Congress to the Executive branch.

The Alaska Coordinating Council in Title VI represents a middle position between coordinating mechanisms which are found in existing law--that is the authority of government agencies to enter into cooperative agreements with one another--and a permanent joint commission. The Council would institutionalize dialogue between most Federal, State, and Native land managers and owners rather than relying upon separate agreements. It does not do anything to achieve better coordination with transportation planning and other important elements of planning.

The recommendations of the seminar on cooperative planning and management conducted by the Commission in March 1978, were that more than one mechanism is needed, particularly during this transition period in Alaska, a coordinating body composed of Federal land managers and other major Federal agencies having an interest in Alaska in addition to a Federal-State body structured much like that recommended by the Commission, coupled with a strong State planning capability.

The powers and duties outlined in Title XII for the Alaska Land Use Council in S. 9 introduced in the Senate this Congress and its structure--with a Federal Co-Chairman, a strong advisory