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2. CIRI wins its suit--ramifications of this alternative would depend largely upon the court's directives. Cook Inlet would undoubtedly receive lands of more like and similar character which would be more physically suitable for settlement and development, but such lands are likely to conflict with land uses thought more appropriate by the State. Swanson River revenues might also be included. Sizeable portions of the Kenai National Moose Range, which is also a State wildlife refuge, might be selectable by the Region. The State could lose selections totaling approximately 600,000 acres in the Upper Susitna Valley near Chalatna Lake if the court concurred with one of CIRI's requests for redress (further details are indicated on the attached maps). Much more importantly, the entire Alaska v. Morton out-of-court settlement of September 1, 1972 will be threatened in that the remaining forty-three and one-half million acres of state selected lands pursuant to that agreement would be in jeopardy from other Native regions or other groups who might like to see substantial portions of that state acreage in other ownership.

3. Congressional action--having made commitments to help Cook Inlet, and having waited a considerable amount of time for discussions among the three parties to prove fruitful, Congress might well legislate an alternative amendment over any objections made by the State or others. It is hard to be specific about the form such an amendment might take, however, there is good reason to believe that some alternate form of the "Frizzel offer" might emerge. As discussed earlier, this proposal has extremely unfavorable consequences for the State.

4. Administrative settlement--although the least likely of the four, some administrative settlement between Cook Inlet and the Secretary might be arrived at which would not be in the interests of the state. Past experience indicates that any settlement proposed by Interior must be, because of land availability in the Region, either unacceptable to the Region or if acceptable, then probably extremely unfavorable for the State.

Additionally, certain advantages which the State has been able to gain through the discussions would not accrue. Specifically, the ability of the State to guarantee its selection and ownership of lands in the Talkeetna Mountains, Kamishak Bay and, more importantly, lands in the Bristol Bay areas. If Cook Inlet is forced to select lands in the Lake Clark area, the State's bargaining chip of guaranteeing that those lands remain in public ownership would be lost, and our leverage to bargain decisively for state selection rights within the Lake Iliamna-Bristol Bay proposed National Resource Refuge would be lost. One of the most compelling advantages of this proposal is the leverage which ownership of lands in the Bristol Bay area may give the State in what may be the most important single post-ANCSA federal political decision in the State's history: The 17(d)(2) question.

Basic Objectives Of Proposal

Each of the three parties had its own objectives in the discussions and would emerge with certain specific benefits.

State--The objectives of the State were basically two.

1. State land ownership--by trading 21.4 townships the State would gain selection rights and control substantially larger areas of the Talkeetna Mountains, Chakachamna Lake, Kamishak Bay, and the Lake Iliamna

and Bristol Bay areas. In these cases the State has operated from the standpoint that the State is much more capable, because of governmental infrastructure and location, to more effectively meet the needs of its people by owning these lands than can the federal government which lacks the "local" governmental structure needed to respond effectively to Alaska's needs. The juxtaposition of the Talkeetna Mountains to the rapidly expanding population in southcentral Alaska will become even more critical upon the possible establishment of a new capital city, very possibly immediately adjacent to Talkeetna Mountain lands which CIRI presently plans to select. In the Lake Iliamna and Bristol Bay National Resource Range proposal approximately 15 percent of the lands will be under the control of private native corporations. The State can more effectively administer to the requirements of its citizens in those areas if it owns the other lands within that region. Additionally, the tremendous dependence upon the salmon fishery resources of that region, and the current responsibility of the State to manage those resources, argue cogently that the State should also control the uplands in that area.

2. Land ownership pattern--as it is the State which must provide those services and governmental functions based upon the land ownership pattern which emerges from Cook Inlet's ultimate selections, it is very much in the State's interest to assure a favorable selection pattern. Under the proposal, ownership patterns would:

- A. provide CIRI with lands physically well suited to settlement and development.
- B. guarantee that such developable lands would be located in close proximity to existing government services and, therefore, significantly reduce future expense in providing communication, education, transportation, and public safety services to these areas.
- C. hasten the development of these suitable lands in a much shorter time frame than could be expected for the remote lands which CIRI would otherwise be forced to select.
- D. a sophisticated but critical point is the fact that certain State selection rights, such as the 11(a)(1) (ANCSA) issue, will have to be resolved very shortly. The State believes it can select in these areas, and if it prevails, such 11(a)(1) selections, in combination with the selections under this proposal, would result in a highly desirable State resource ownership pattern, particularly in the Iliamna area.

It might well be emphasized that, although the State believes that its own ownership in this area is critical, an equally high value must be placed on simple consolidation of ownership under as few owner-managers as possible (regardless of who is the owner). This is so far the reason that it is a "mix" of ownership and management patterns that creates the greatest difficulties over the

long view for a large resource area.

CIRI--The basic objectives of CIRI are to obtain lands of more like and similar character to those historically occupied by their ancestors within the Cook Inlet Basin. The proposal would largely accomplish this, although the Region will have reduced its entitlement significantly in obtaining these more suitable lands and would be taking over 50 percent of its entitlement outside the Region. The benefits to the 6,000+ members of Cook Inlet Region, Inc. would be increased, and as members of the Southcentral Alaska community these benefits would have substantial favorable economic and social impacts upon the State. Most important, the Region would finally have accomplished certainty in its selections, which is extremely important for the stability of the Corporation.

Federal Government--The objectives of the Federal Government were to settle the responsibilities of the Secretary with respect to the requirements of ANCSA and to accomplish this in a manner which would have minimal impacts upon other values for which the Secretary is charged with protection. More specifically, the proposal would permit a more acceptable incursion into the Kenai National Moose Range, thus protecting fish, wildlife and their habitat as well as the substantial recreational values of the Refuge. The proposal would also leave certain key areas in the Lake Clark area under Federal control and management. This makes sense in terms of other Federal ownership in the area. Most important, it would settle with finality one of the most difficult and complex legal and resource issues under ANCSA, one which has

required substantial governmental resources.

Negotiation Process

The first approach to the State requesting State participation in land trade discussions occurred in mid-February when Andy Johnson, President of CIRI, met with the Director at the Division of Lands. Following the loss of its District Court suit, and the resultant hardening of the Department of Interior's bargaining position, Cook Inlet then took the legislative solution route and only occasional discussions among and between the three parties occurred during the remainder of February, March, and early April. However, as it became obvious that a legislative solution not in the State's interest was a real probability, and following a request for State participation during Congressional hearings, a decision was made to pursue discussions concerning the proposed trade. At this time, the Commissioner and Governor were briefed, guidelines and general policies and objectives were set, and authorization was procured.

Somewhat regular meetings began in approximately mid-April and intensified considerably toward the latter part of April and the first week of May. By this time considerable public interest had been generated by media reports of the proposed amendment and the Anchorage Area Borough, in addition to the State, was working with representatives of CIRI on a very regular basis. Discussions on the part of the State were led by the Director of Lands. Staff assistance was requested when necessary and various staff attended certain of the meetings. Other divisions within the Department of Natural Resources, particularly the Divisions of Oil and Gas and Parks were consulted to a significant extent and other departments were asked to input when it was felt certain terms in the discussions affected their areas of interest. The Division of Aviation and the Department of Fish and Game were particularly involved. The ongoing progress of the discussions was regularly transmitted to the Commissioner of Natural Resources.

By the end of the first week in May substantial progress had been made and it appeared that CIRI would be willing to withdraw its proposed amendment on the basis of the tentatively proposed agreement. However, it was explicitly stated to the Region and Interior Department that final State concurrence could not be had until a public review and comment process had been effected. CIRI understood this and agreed to request that Congress not act immediately on their proposed amendment, but rather allow enough additional time for the proposed land trade to be agreed to by all parties. On May 7 a briefing was conducted by the Director of Lands for the Commissioner, the Governor, and the several appropriate department heads in Juneau. On the basis of that presentation and ensuing discussions, the decision was made for the State to also request that Congress refrain from acting on Cook Inlet's proposed amendment immediately and to allow additional time within which the parties could move to a final agreement following public input in Alaska.

On May 16 the Commissioner and the Director presented such testimony to the appropriate House and Senate Interior Subcommittees respectively. Prior to this testimony the three members of the Alaska Congressional Delegation and appropriate staff were briefed in considerable detail concerning the tentative proposal as it then existed.

Shortly following the Congressional testimony, the Cook Inlet Region, Inc. Board of Directors, for internal reasons not fully understood, voted to reject the then existing proposal and this led to an approximately three week period during which little discussion occurred between the State and CIRI. The lack of agreement was based primarily upon the Region's insistence that it ultimately obtain full surface entitlement under ANCSA, even if outside the Region. The State felt that full entitlement in addition to the lands which the State had proposed to trade to CIRI

was unacceptable. The latter part of June, following some Region concession on the full entitlement issue, discussions began again and continued intermittently throughout July, August, and September as Congressional deadlines for action continued to recede. The extra time available was invaluable in allowing the State to more closely scrutinize various aspects of the proposal and to work with the Interior Department to insure the State could agree with the concessions which Interior was proposing. During this period additional meetings with the Congressional Delegation, other division and departmental staff and representatives from CIRI occurred. Documentation of these meetings is contained in greater detail in the file.

On September 24 additional testimony was presented before Senator Haskell's Interior Subcommittee concerning the proposal. Presentations and discussions were held with various interested parties in Washington, including the Congressional Delegation, and a more detailed presentation concerning the state-federal aspects of the proposal was made by the Commissioner and Director to the Department of Interior's Alaska Task Force.

On September 26 the Director announced that a public briefing of the proposal would be held in Anchorage on October 2 with public testimony to be received orally on October 3 with an additional period for written input. On September 30 a very detailed briefing of the proposal was made to both Division of Lands staff and a second briefing to representatives from other divisions within the Department of Natural Resources and representatives of other State departments. On October 1 another very detailed briefing was given to the Press, radio, and television media. Before the public presentation additional detailed presentations were made to various groups which had expressed considerable interest in the ongoing discussions. These included representatives of three affected municipal governments (Anchorage, Matanuska-Susitna Borough, Kenai Borough),

Legislators, and environmental groups. Public presentation on October 2 and the meeting the following night for public input were very well attended and, in response to requests for a similar hearing in Fairbanks, another presentation was made in Fairbanks on October 7. As a result of the media campaign and the public meetings, significant public input was received and a number of meetings were held between the Director and interested parties as well as several additional detailed briefings to groups specifically requesting them. These latter included the Bureau of Land Management, Anchorage Chamber of Commerce, Kenai Borough Assembly, Capital Site Selection Committee, and the Federal-State Land Use Planning Commission. A summary of the input from the public and the various interested groups, as well as the State's response to this input, is detailed later.

Specific Nature of Proposal

The proposal is basically composed of three different parts; a State-CIRI agreement, a CIRI-Federal agreement, and a State-Federal agreement. All aspects of each sub-agreement must be executed before the entire proposal would be binding. In essence, the State of Alaska would make available to CIRI State lands which the Region feels are of like and similar character to those lands which it has historically used. In return, the State would fall heir to approximately one-half of Cook Inlet's 12(c) entitlement in the Talkeetna Mountains, Chakachamna Lake, Lake Clark, and the Kamishak Bay areas. The remaining approximately one-half of Cook Inlet Region's 12(c) entitlement would remain in federal hands and the Federal Government would in turn convey to the State an equivalent amount of acreage in the Bristol Bay area. Additionally, the Federal Government would convey to Cook Inlet certain other lands within the region, including lands from the Kenai National Moose Range, as well as a total of approximately 26 townships to be selected from federal lands outside of Cook Inlet Region.

Because certain Cook Inlet Region village selections have or are likely to impact state, federal or CIRI Interests related to Cook Inlet's selections, smaller sub-agreement proposals have been discussed with approximately seven villages or groups. These proposals function very rationally within the framework of the Cook Inlet Region selection proposal. Without the inclusion of these sub-agreements the interests of one or more of the three major parties would be likely frustrated by the existing village or group selection patterns.

Attached as Appendix A to this document is a more detailed breakdown of the specific aspects of the "original" proposal as presented publicly on October 2. Each aspect of the proposal was specifically keyed by number to an attached map which shows the location of that particular aspect of the proposal. Each aspect was also briefly explained as it pertained to the overall proposal. With only a few exceptions those aspects were the same ones which we had been discussing since last May and, therefore, there was relatively little new with respect to the proposal at that time. Following public input, as described below, and as a result of the U.S. District Court's finding Salamatof and Alexander Creek as certified villages, the proposal was modified and is shown in its final form under the "Current Status" hearing below.

Characterization of Public and Agency Input

The more or less finalized "original" proposal was presented to state agencies and the public in detail during the first week of October. As a result of this process input was received from many sources, primarily the public. This input was used for a series of additional sessions with CIRI in which significant modifications were made. This resulted in the "modified" proposal described later. The characterization below represents agency and public input with respect to the "original" proposal before modification.

As with the public input, other state agencies generally supported the concept of the State's attempts at insuring rational land ownership patterns. One aspect of the proposal, that of the approximately 12 township selection in the Beluga area, generated significant comment from the Division of Geological and Geophysical Survey as well as the Minerals Section within the Division of Lands. This input, both oral and written, emphasized both the amount of known and inferred coal reserves as well as the potential for coal exploitation under various conditions. While general parameters of the coal resource in the Beluga area had been known during the discussions with CIRI, more detailed and specific input from these agencies was requested and received. The specifics of this input may be found in the case file. Input from other state agencies which requested specific alterations or suggestions, e.g. the Department of Highways, was inputted during the modification discussions and this input may again be found in the file. Other agencies generally expressed approval either orally or written of the basic aspects of the proposal.

Public input following presentation of the "original" proposal came in both oral and written form. The vast majority of respondents indicated favorable support for the concept of the State entering the discussions and the general expression was that, with the exception of certain aspects of the proposal, the overall benefit which accrues to the State outweighed any deficits involved. Against this background of significant public support for the concept of the proposal, eight specific areas were singled out which received comment.

1. Mental Health Lands - Testimony brought out the fact, inadvertently overlooked by all parties, that approximately six and one-half townships from within the original pool of land CIRI could select from in the Beluga area had been selected by the State as mental health lands. Input and interest concerning these lands was received not only at the public hearings but

also through several telephone calls from interested members of the public. It might be noted that this finding alone made the extensive public process invaluable, and demonstrates the need for public exposure on all similar complex issues.

2. Coal Deposits - By far the most controversial aspect brought out by the public hearings and subsequent input concerned the inclusion of the "Beluga Coal Fields" in the proposal. Concern was genuinely expressed, although facts, figures and questions were often uninformed in nature. However, the sum total of input at the public hearings, from interested calls and appearances at the Division of Lands by interested parties, and inquiries from several groups indicated a definite feeling that significant acreage of lands with coal potential were felt to be "too much."

3. Insufficient Time - A number of comments were received which indicated that because of the complexity of the proposal insufficient time was available within which to satisfactorily study and comment. Interested parties were understanding of the fact that the "deadlines" were largely a result of a Congressional time schedule beyond our direct control, but the feeling of inappropriate time constraints was still evident. Later announcements by the State that over five weeks were available for public input ameliorated this feeling considerably.

4. State Agency Input - A few respondents indicated that they felt that insufficient input had been received from some State agencies during the negotiation process. While such comments generally indicated an understanding that specific recommendations from all agencies could not necessarily be accommodated in the proposal, the feelings were that all resource aspects should be addressed equally before a final decision is made on the proposal.

5. Legal Aspects - Two respondents raised the question of the authority of the State to enter into such a proposed trade. Their comments were almost exclusively directed at the authority of the State to alienate sub-surface resources in apparent contradiction to the Alaska Statehood Act and to the process by which "equal value" was determined.

6. Parks and Recreation Protection - A very significant number of respondents indicated approval of those few aspects of the proposal which offered some measure of protection for future open space and/or recreational options.

7. Accelerated Development - Several respondents indicated a favorable disposition to those aspects of the proposal which, by providing the Native corporations with lands appropriately located and suitable for development, would hasten the settlement and development of these lands in a manner which would favorably impact the State's economy. It was also felt that the location of private development in the Cook Inlet basin was appropriate and timely.

8. Extra-Regional Selection - Comments were received from three regional corporations which protested the out-of-region entitlement for Cook Inlet. These comments centered largely on a fear that CIRI's interests would not be compatible with those of Native residents of other regions, particularly with respect to CIRI's responsiveness to their life styles and subsistence needs. A fourth region, however, testified in favor of the proposal.

At a meeting of the Alaska Legislative Council in Anchorage on November 4, a presentation to the Council concerning the proposed Cook Inlet land trade was made by Mr. Harold H. Galliett, Jr. Mr. Galliett was particularly concerned with the Beluga lands aspect of the proposal. Not being familiar with the

"modified" proposal which resulted from public input of the preceding month, Mr. Galliett's presentation unfortunately conveyed some erroneous information. As a result of the presentation and an ensuing discussion, the Council became very interested in the proposal, and a subcommittee, chaired by Senator Kay Poland of Kodiak, was appointed to look into the matter and to report back to the Council. This subcommittee met in Juneau with the Governor, Commissioner of Natural Resources, and Director of Lands on November 7. In addition to Senator Poland, other legislators present included Senator Rader and Representatives Smith, Miller, and Specking. The session included a detailed presentation of all aspects of the proposal followed by extensive questioning. The session lasted approximately three and one-half hours. On Monday, November 10, a conference telephone call was held among members of the Legislative Council concerning the proposal and the response of the Council was made in a letter from Council Chairman Gene Chance to Commissioner Martin on November 12. The Council felt that because of the early time deadlines and complexity of the proposal that the Council was in no position to either condone or oppose the trade proposal. Senator Chance did, however, indicate that members of the Council were free to express individual opinions on this or future land trade proposals.

The press was somewhat indecisive in commenting on the entire proposal. The "Daily News" did not discuss specifics, but rather applauded this attempt by government to actively participate in a proposal which would have such a great effect on the State. The "Daily Times" pointed out some of the benefits to be accrued, particularly the aspects of putting lands more suitable for development into native hands at an early time, but also questioned whether all aspects of the trade had been publicized so that a full and complete judgement might be made by the public. More recently, following the interest expressed by the Legislative Council in early November, the "Times" questioned

why the State was even involved in the matter in light of the paper's feeling that the problem was really one between the Federal Government and the Natives.

Generally, press coverage of the entire process has been extensive, and it is safe to conclude that public exposure, for those who chose to follow the issue, was extremely high. The Press briefing given by the State regarding the initial proposal was probably the most extensive ever given on any issue regarding State lands.

Current Status

As a result of public and agency input certain substantial changes were made to the tentative proposal which was made public during the first week of October. In addition, the decision by Judge Gazell in the United States District Court, which found that the villages of Salamatof and Alexander Creek were certified and therefore entitled to select large acreage within areas very important to the agreement, caused other necessary changes to the original proposal since certain aspects of the proposal sought an agreement before a decision was rendered. The significant changes to the "original" proposal, which have resulted in a "modified" proposal, are outlined below.

1. Beluga Area--the original proposal would have permitted CIRI to select 12 townships from a pool of approximately 22.5 townships in the Beluga Area. The modified proposal would permit CIRI to select 13.5 townships out of a pool of approximately 16 townships. The reduced pool reflects the $6\frac{1}{2}$ townships of Mental Health lands which were withdrawn from the pool. This reduction would leave approximately 75 per cent of the measured or indicated coal reserves in State ownership. Despite this very significant diminu-

tion of value to Cook Inlet Region, the modified proposal calls for only 1.5 additional townships which may be selected from the diminished pool. In addition, a much larger area on the coast southwest of the Tyonek Reservation would remain in State ownership for future resource development in that area. Rather than CIRI owning a land corridor from its selected lands to the coast, the State would guarantee a public right-of-way for various resource and other transportation needs.

2. Bristol Bay Area -the original total of approximately 30 townships in the area of the Interior Department's Lake Clark d(2) proposal which were to be traded by the State in return for an equal number of townships in the Bristol Bay Area has been reduced to approximately 25. This change resulted from a determination by the State that it would be of greater benefit for the State to receive title to approximately 5 townships in the Lake Chakachamna Lake area. In addition to the inherent value of these lands, the Interior Department is very interested in these townships for inclusion in its d(2) proposal. For this reason, the State would retain a very strong bargaining position by obtaining title at this time to those lands.

3. Anchorage Bowl Federal Surplus Lands--while the original proposal specifically prevented CIRI from obtaining title to Federal Surplus Lands in the Campbell Tract, Point Campbell and Point Woronzof withdrawals, the modified proposal goes further in also protecting the Goose Lake withdrawal and in guaranteeing transfer of the Campbell

Tract to the State Immediately and the Point Campbell and Point Woronzof of those surplus properties to the State or the Anchorage Municipality surplus properties as soon thereafter as possible.

4. Other Federal Surplus Lands Or Withdrawals--the original proposal permitted CIRI to select up to 3 townships of Federal lands in the Cook Inlet region from a pool of Federal surplus property, revoked Federal withdrawals and unperfected public land entries such as homesteads, etc., on an acreage basis. The modified proposal recognizes that such Federal lands may have significant economic values and there is therefore a provision to reduce CIRI's selection entitlement by 1 acre for every \$500 of land value selected by CIRI from such Federal lands. In addition, the State is given certain veto and appeal prerogatives to insure that public interests are protected prior to selection by CIRI.

5. Extra-Regional Selections--In response to input by other Native regional corporations which expressed apprehension at CIRI's ability to select lands in close approximation to their land selections, the modified proposal permits affected village and regional corporations outside Cook Inlet to exercise a veto over CIRI's land selections in their 11(a) withdrawals. This will assure the other Native corporations of protection for subsistence, economic or other values. To insure that CIRI would have sufficient lands available to select from, the modified proposal permits CIRI to select from d(1) lands extra-regionally by following a selection process which guarantees both the Federal and State governments a role in determining the location of selections and in protecting each government's own specific interests.

6. Kenai National Moose Range--the District Court's finding that Salamatof is an eligible village immediately impacted the Moose Range with an additional 56,500 acres of selections. Since it appears the Federal government may appeal the decision, the impact and final date of land selections on the refuge are unknown at this time. The modified proposal therefore assumes a maximum selection by all Native corporations of approximately 108,000 acres. If the Federal government appeals and is successful, then the lands otherwise selected by Salamatof would probably go to the CIRI as shown in the original proposal. However, if Salamatof does remain an eligible village, CIRI would obtain lands in the refuge only to the extent that some of the villages were willing to trade out of the Moose Range and make lands available for CIRI. In essence, therefore, total impact upon the refuge would remain roughly the same as in the original proposal; the only difference would be which corporation would own the lands.

7. Lake Clark Village Selection Tradeouts--as a result of the District Court decision which found Salamatof and Alexander Creek as eligible villages, the acreage of village selections in the Lake Clark area approximately doubled. Although the State would still trade out those village selections on a 1 for 4 basis, total State acreage involved would remain about the same. The only differences from the original proposal would be that 4 rather than 2 villages would be involved, and the Federal government would be required to provide any other additional acreage from within other village deficiency withdrawals.

Eight specific aspects of the original proposal were commented upon during the public input process. These aspects are outlined above on pages 15-17. Aspects number 1 (Mental Health lands) and 2 (coal deposits) were very substantively addressed and the changes described under number 1 of current status above. Aspect number 3 (insufficient time) has been taken care of by the continued Congressional postponement of action which has provided over 60 days for public reaction and input. Aspect number 4 (State agency input), if a valid basis for comment ever existed, was also addressed during this 60 day period. Contacts with most state agencies, particularly the Division of Geological and Geophysical Survey, resulted in additional comment and input from these agencies. The Division of Geological and Geophysical Survey in particular submitted additional memoranda and reports concerning resource values in the Beluga area. Items number 6 (Parks and Recreation Protection) and 7 (accelerated development) were merely supportive of certain aspects of the original proposal. These aspects were retained in the modified version. Aspect number 8 (extra-regional selection) was specifically addressed in number 5 under current status above. Only aspect number 5 (legal aspects) of the public input summary has not yet been specifically addressed in this memorandum. These legal points of the proposal are discussed in greater detail in the following section.

Major Considerations Before Decision

Two important considerations in all land exchanges were emphasized by a few members of the public and also by the Special Legislative Council Subcommittee:

1. Is there existing legal authority to conclude an exchange?
2. Would the State be receiving at least equal value for the value it gives?

These aspects had, of course, been investigated by the State at the onset as an integral part of any such decision-making process.

1. Authority - It is the opinion of the Attorney General and, we believe, of most other attorneys who have addressed the matter in detail that the Executive presently has State statutory authority to undertake this proposed land exchange. Authority has apparently existed since the enactment of the Alaska Land Act shortly after Statehood for the State to conclude an agreement such as this land trade proposal. Under AS 38.05.020(b)(2), the Commissioner, and, under AS 38.05.035(a)(14), the Director, have several times since Statehood entered into land trades or other agreements affecting lands that were not treated as sales or leases under the Land Act. Additional specific authority for land exchanges such as the present proposal was provided by the 1972 Legislature in the form of AS 38.95.060 as a counterpart to Section 22(f) of ANCSA. Among other things, this law permits the State to exchange land or interest in land with a Native corporation for the purpose of affecting land consolidations or to facilitate the management or development of the land.

The authority cited above does not prohibit the alienation of minerals as proposed in the trade. Although there is no State statutory obstacle, the Statehood Act prohibition against such alienation, found in Section 6(i), is regarded by some as a Federal constraint. Many persons take the position that Section 6(i) has been amended by implication in Section 22(f) of ANCSA so that it does not come into play in such exchange transactions. To erase any questions, the Federal Legislation which will implement the land

trade proposal will specifically address this matter to remove any doubt as to Congressional Intention regarding state authority to enter into such a proposal.

2. Equal Value Consideration--In determining whether equal value will be received for value given in an exchange such as this proposal, there are basically two different types of "values" which require consideration. One is a value which can be determined with reasonable accuracy to have an economic value, often expressed in dollars. Secondly, there is value which either may be capable of expression in economic terms but for which a specific dollar value cannot be estimated with any particular degree of certainty at this time, or for which an economic value may never be specifically determined. However, values in this second category are very real and a reasonable person would recognize their existence and importance in computing the overall value received or given in a trade. With respect to this proposal paragraphs A and B below outline, respectively, the two types of values mentioned above.

- A. Economic Values--The information presented below represents a summary of economic values identified with respect to State interests in the proposal. The information is based upon reports from various State sources and is expressed in terms of current 1975 dollars, i.e. economic values of resource potentials such as the Deluga coals have been discounted back to present day value. Only those resources specifically known to exist were valued. For example, although there are unquestionably very real and significant subsurface economic mineral values on lands which the State

would receive under the proposal, since they are as of this time unidentified no attempt was made to infer a particular economic value. In the Beluga area where certain measured or indicated reserves exist, however, estimated valuations were made.

Under the proposal the State would exchange approximately 21.2 townships of its land in return for 51 townships of Federal land and the right to select, at the State's discretion, an additional 20 townships. Also, the State would receive title immediately to the Campbell Tract in the heart of the Anchorage Bowl as well as a commitment to an expedited transfer of the Federal surplus lands at Point Campbell and Point Woronzoff. In estimating the economic value of the lands to be given and received by the State, estimates were made on the value of the land itself, any timber thereon, and any known mineral resources thereunder. The table below summarizes these values. Documentation may be found in the files.

TABLE I.

ESTIMATED ECONOMIC VALUES, IN PRESENT DOLLARS, OF LANDS
GIVEN AND RECEIVED BY THE STATELANDS GIVEN BY STATE

<u>LOCATION</u>	<u>ACREAGE</u>	<u>VALUES (\$MILLIONS)</u>			<u>TOTAL</u>
		<u>LAND</u>	<u>MINERALS</u>	<u>TIMBER</u>	
Scattered Tracts	69,721	15.7	---	1.8	17.5
Kenai Penn.	107,650	16.1	---	1.3	17.4
Beluga	314,640	22.0	15.9 ^a	1.2	39.1
TOTAL	492,011	53.8	15.9	4.3	74.0

LANDS RECEIVED BY STATE

<u>LOCATION</u>	<u>ACREAGE</u>	<u>VALUES (\$MILLIONS)</u>			<u>TOTAL</u>
		<u>LAND</u>	<u>MINERALS</u>	<u>TIMBER</u>	
Kamishak Bay	276,480	11.1	---	.2	11.3
Koksetna R.	161,230	6.4	---	.2	6.6
Talkeetna Mts.	161,280	6.4	---	.1	6.5
Bristol Bay	576,000	23.0	---	---	23.0
Campbell Tract	3,930	5.9 ^b	c	c	5.9
Pt. Campbell	1,179	6.6 ^d	---	---	6.6
Pt. Woronzoff	303	4.2 ^d	---	---	4.2
Capt. Cook Rec. Area	4,800	.8	---	.1	.9
TOTAL	1,228,742	64.4	---	.6	65.0

NOTE:

- a. The 15.9 value for the Beluga Coal resources is based on the middle of three scenarios for production in that area (pessimistic, medium, optimistic). The value has been discounted at eight percent from future revenues to present dollar values. The most optimistic scenario, which makes several very optimistic assumptions, would yield a discounted value of \$38.2 million (figures attached to memo).
- b. A very conservative figure of three thousand dollars per acre has been assumed for the Campbell Tract. This figure has then been discounted fifty percent under the assumption that if the State did not gain immediate title to the area under this proposal it would still stand a respectable chance of obtaining the land at some time in the future.
- c. Although other values including timber and specifically gravel are found on the Campbell Tract, sufficient data were not immediately available to make a good estimate of value. However, the value of gravel alone, located as it is within the center of the Anchorage Bowl, would be very substantial, certainly totaling in the millions of dollars.
- d. As with the Campbell Tract the values of the Point Campbell and Point Woronzoff surplus lands has been discounted to recognize that the State might obtain these lands at some unknown future date in other ways if the proposal is not executed. However, because these lands are outside of the two-mile radius of the old city boundaries, and because they are not as important as the Campbell Tract for other public purposes, there is a measurably greater probability that these surplus

Table I. NOTE d. continued.

lands would go to CIRI under some other form of settlement of their claims. Therefore, the conservative values of \$8,000 and \$10,000 per acre, respectively, are further discounted only thirty percent.

To the values to be received by the State as estimated above must be added values which, if the proposal is not consummated, might be lost to the State. The two most prominent values in this category are the ninety percent royalty revenues which the State receives from oil production in the Swanson River area of the Kana National Moose Range, and 26 townships of state selected land which CIRI would select if they prevailed in their court suit and the Secretary made such lands available for native selection by refusing to convey them to the State. Any estimation of the value of these two possibilities to the State must assume certain levels of probability that the situation would occur without execution of the proposal.

Swanson River Revenues--There are any number of factors which may enter into assuming a probability that the Secretary or the Congress might convey to CIRI substantial subsurface title in the Moose Range. While only 15 months ago such a possibility would have seemed small to the State, ownership of 15 townships of Moose Range subsurface estate was offered to CIRI by the Secretary in September of 1974. Had CIRI accepted the offer at

that time the possibility of that event would have been one-hundred percent. In view of both that offer and Congress' assurance to CIRI of some settlement of their land claims problem, and assumption of a .5 probability does not appear unreasonable. Using State revenue projections for oil and gas royalty receipts from the Moose Range for only the next 14.5 years, and discounting those revenue projections at eight percent, a figure \$41 million is obtained. Use of a probability of .5 yields an estimated value of \$20.5 million.

Chalatna Lake 26 Townships--In assuming a probability that the State might lose title to lands currently selected south of Mount McKinley National Park in the Lake Chalatna area two probabilities must be estimated. The first is the possibility that CIRI would prevail in its court suit. Assuming that CIRI did prevail, a probability must then be estimated as to whether the Secretary would attempt to break the 1972 out-of-court settlement of Alaska v. Morton and whether he would be successful in that attempt over almost certain State court action. Numerous arguments may be proposed regarding these two probabilities but for this analysis probabilities of 50 and 40 percent respectively are used. Applying these probabilities to an estimated current land value for the 26 townships of \$24.0 million and an estimated value for timber of \$3.3 million, a value of \$5.5 million is found.

A third value which must be estimated is that of the

additional 20 townships which the State may select at its discretion. Although statehood selection entitlement would be used, three factors must be considered. First, there is a possibility that the State may never be able to exercise its full selection rights under the Statehood Act and that the State must look closely at every opportunity it has to select lands. Secondly, the lands which could be selected are, relative to the lands that will be remaining after implementation of ANCSA and settlement of the d(2) question, certainly in closer proximity to existing state lands and populated areas. Thirdly, an exercise of State selection rights would be the first selections under the Statehood Act in the past four years. In other words, the "right to select" certain lands now that are in close proximity to existing state selections is in and of itself of value. Using the very conservative total value for these lands of \$40 per acre, and discounting the 20 township selection right by a factor of two-thirds to account for the use of selection entitlement, the result is an estimate of \$6.1 million.

Thus, the total estimated value of the three factors described above is \$32.1 million. This total, when added to the estimated appraised values cited in Table 1. above, gives a total estimated economic value to the State of \$97.1 million. To this total must be added or subtracted the values described below to which a reasonable economic value cannot be applied at this time, or perhaps ever,

with any degree of certainty.

B. Other Values--As mentioned earlier, there are two types of other values which must be taken into consideration for purposes of evaluating this proposal. First are economic values which cannot be identified with any reasonable specificity at this time, and secondly there are those values which might never be capable of having a specific economic value attached to them, but which are unquestionably of significant value none the less. Paragraphs number one and two below present, respectively, positive and negative values to the State associated with the present proposal. Although certainly not exhaustive, the listing attempts to outline the major non-economic values involved.

1. Positive Values--the following positive values would accrue to the State should the proposal be consummated.

(a) CIRI Court Suit--as explained earlier in this memorandum, if Cook Inlet wins its appeal the State might lose not only considerable acreage from its present selections south of Mt. McKinley National Park, but it might also lose substantial additional lands should the September 1972 out-of-court settlement with the Secretary be abrogated. In view of the District Court's decision that the Secretary was in error concerning his finding eleven villages intelligible, Cook Inlet Region's chances

of success with its court suit were measurably increased.

(b) Moose Range Surface Protection--private surface ownership within the Moose Range would be kept to a minimum, thus protecting the very significant wildlife and recreational values of the Moose Range. The Moose Range is also a state wildlife refuge and its already tremendous value for recreational pursuits including hunting, fishing, canoeing, etc., will continue to grow with increased settlement and development of state and private lands outside the refuge on the Kenai Peninsula. Some, however, would argue that maximum Moose Range lands should be given to the natives so that development may occur.

(c) Suitable Lands In Private Ownership--the state lands received by the Native corporations are lands suitable for settlement and development because of physical characteristics and location, thus substantially reducing future costs to the State to provide services to these areas. Additionally, the Native corporations receiving these lands will be in a much better position to develop them at an earlier date, thereby stimulating economic development and providing an

additional tax base both to the State and to the local governments involved.

(d) Kamishak Bay Lands--under the proposal the State would receive title to approximately 12 townships of land on the west side of Cook Inlet on Kamishak Bay. These lands would represent the only State presence on the west side of Cook Inlet for at least 400 miles south of Kalgin Island. Kamishak Bay itself, owned by the State, is believed to have significant oil and gas resource potentials and these coastal lands represent the only feasible areas for onshore development facilities. This proposal would put these lands in State hands. Additionally, the terminus of the Interior Department's "western transportation corridor", which originates in Petroleum Reserve Number 4, terminates on Bruin Bay which the State would also receive.

(e) Talkeetna Mountain Land--the State would receive approximately 14 townships in the Talkeetna Mountains area, some of which would be located immediately adjacent to currently State patented land. Three of these townships are contiguous to one of the three final sites to be considered for the new State Capital. Additionally, the proposal would bring to

State ownership lands otherwise selected by Native groups which would be included in the current Talkeetna Mountain State Park proposal. The land trade would permit a manageable park boundary proposal to be established, thus obviating the inevitable costly routine of buying back private property in the future. Also, watershed protection for a new Capital or for other settlement to the west would be assured.

(f) Addition To Captain Cook Recreation Area--the proposal would insure that a minimum of 7 sections of land would be added to the Captain Cook Recreation Area from federal lands within the Moose Range. Otherwise, Native selection of these sections would result in a significantly less manageable recreation unit.

(g) Public Lands--the proposal would insure that lands with significant public interest would remain in public ownership, particularly in the vicinity of Lake Clark. In addition, the State would receive lands in the Chakachamna Lake area which would give the State significant bargaining power in influencing federal action with respect to hunting, mining or other State interests in any permanent federal withdrawal in the Lake Clark area.

(h) Increased State Presence In Bristol Bay--

the proposal would increase the State's presence in the Bristol Bay area by gaining for the State approximately 25 townships of d(2) land in addition to the 12 townships on Kamishak Bay. The 17(d)(2) land would, of course, be otherwise unavailable to the State. This enhanced state position will strengthen the State's bargaining power with respect to the proposed National Resource Range in the Bristol Bay-Lake Iliamna area. If the Resource Range proposal is adopted as presently proposed, the State, with the single exception of the Wood River-Tikchik area, would be totally removed from any significant land ownership position west of Cook Inlet.

(i) State Interests In Other Federal Lands--under

the proposal other federal surplus lands and unperfected public land entries which might go to CIRI within the region would be subject to a State veto and/or appeal process to protect State and public interests in these lands. Since the eventual settlement CIRI receives, whether by agreement, legislation, or by court action, will undoubtedly include these lands, the proposal represents the State's only opportunity to participate in protecting the public interests on these lands. As an example, the Bradley Lake Power Withdrawal is specifically protected from Native ownership; if the withdrawal should

be revoked, it could be selected by the State.

2. Negative Values--the following negative values would accrue to the State should the proposal be consummated.

- (a) Beluga Coal Management--the proposal would remove the State from its current position of almost total ownership of lands in the Beluga area by putting into CIRI's hands approximately 25 percent of the measured and indicated coal reserves and surrounding lands which may contain additional reserves. While the State would still of course have very substantial environmental controls over mining through its air and water quality standards, etc., and while it could pass surface mining legislation applicable to private lands, it would lose the additional landlord power to control strip mining operations. However, with regard to revenues, the State would lose its royalty interest, but all informed opinion agrees that a severance tax would yield the best returns, and is the proper course for the State to follow.

- (b) Loss of Port Area--approximately 7 sections of land northeast of the village of Tyonek with potential for industrial development and docking facilities would be transferred to native hands. Perhaps the best site on the west side of northern Cook Inlet, which is located just to the south of these 7 sections, is already owned

by the village of Tyonek. The State would retain, however, another site of at least equal suitability and potential just west of the Tyonek village lands. This latter site is the one which has been primarily suggested and studied from the standpoint of the use and/or shipping of coal from the existing coal leases in the Beluga area.

Economic Summary--As mentioned earlier in determining equal value two types of value have been used; value in economic terms and value in a sense which cannot be strictly expressed in dollars. As outlined above, the economic values themselves which accrue to the State are in excess of those values which the State relinquishes. These are calculated as shown below.

TABLE 2.
SUMMARY OF ESTIMATED ECONOMIC VALUES (\$MILLIONS)

GIVEN BY STATE

Existing values relinquished	74.0
TOTAL	<u>74.0</u>

RECEIVED BY STATE

New values received	65.0
Existing values not lost	<u>32.1</u>
TOTAL	97.1

To the total economic values received by the State the non-economic values cited above, both positive and negative, must be added. Since the degree to which these non-economic values accrue positive or negative benefits to the State is somewhat subjective, certainly no quantification is possible. However, they are very important considerations and any decision making process must reasonably incorporate

them in determining the overall equal value consideration.

Finally, it should be emphasized that the agreement represents a negotiated settlement, which is an extremely important factor.

First, it can certainly be suggested that negotiation, particularly regarding non-quantifiable items, is man's best procedure for reaching equity. While this is not relied upon for legal foundation here, it is nonetheless crucial for public policy reasons.

Second, a settled three party negotiation implies that each has left the bargaining feeling that either he got a fair and equal share, or more likely, a better share than the others. The Director would certainly assert the latter in terms of a negotiated value for the State, but would recognize that each party may feel the same for its own reasons and seek to demonstrate this to its constituency or higher authority.

Third, it is important to convey some sense of the "paths not taken" regarding trading items and other values. While no blanket conclusion is possible, there can be every assurance that a comprehensive effort took place, over many months, to seek out and discuss a multitude of alternatives before reaching the agreement herein.

Conclusions and Recommendations

This memorandum of transmittal has attempted to outline in a structured fashion the basis for State participation, the process of that participation, and the results as found in the proposal. It is my conclusion that State participation

In the modified proposal as described above is in the best interests of the State and that the State will receive considerable excess value for the value it relinquishes. As your approval and the concurrence of the Governor are needed to authorize State participation in this proposal, this document can serve as basis for that decision, augmented by any further information you may require. In this particular case since you have been very closely and continuously involved with the process, and as the Governor has been fully briefed at several different times, I believe most of the aspects are suitably covered above, and in the complete files on this matter.

While it is my opinion, and that of most others I know who have addressed the matter in detail, that the Executive Branch presently has the state statutory authority to execute this proposed land exchange, it is also true that questions have been raised by members of the public and by legislators concerning the adequacy of this authority. While I believe that these questions would certainly be answered by the courts in the executive's favor, the process of litigating a test case would be inordinately time-consuming. That intervening litigation period would protract the commencement of passage of lands under the agreement, a consequence which all parties regard as undesirable, and possibly fatal, if the basic merits of the agreement are accepted.

There is no doubt that the proposed exchange cannot come to pass without prior federal legislation clearing its way under NEPA and Section 6(1) and dealing with other matters of implementation. The opportunity - perhaps the only opportunity - for such legislation is upon us now with the omnibus ANCSA amendments bill.

After the Congressional legislation is passed, it of course will be necessary for the State to assent to the exchange. While the Commissioner is authorized under existing law to give that assent, unilateral executive action on a matter of this

magnitude would be inconsistent with the policy of the present administration that all important social institutions should have the opportunity to participate to the fullest extent possible in such decisions. Therefore, I believe the State should structure the proposed transaction so as to maximize the Legislature's ability to participate in the decision. (Indeed, the Administration endeavored to involve the Legislature throughout the public review process as the proposal has been developed.) The problem, of course, is that there is no mechanism by which the federal government can legally "negotiate" the matter through the Legislature during the session, for Congress must act now to get federal authority for a specific proposed transaction. Nor is it likely under our Constitution that the Legislature could, or would choose, to do so.

Given these premises, the only opportunity that the State has to insure that the Legislature may pass upon the merits of the proposal is for Congress to enact legislation empowering the Secretary to consummate the transaction (removing federal obstacles to the State's participating), such legislation to be subject to the State's subsequent consent. The state administration, in its turn, pledges that consent to the Congressionally legislated "offer" will be forthcoming, if at all, only after review and consideration by the Legislature. An action by the Legislature disapproving the exchange should result in an action by the Governor denying consent.

If the decision is made to seek legislative review the time factor is particularly important. For several reasons, including the Congressional need for certainty the inexorable progress of Cook Inlet's appeal, and the dynamic nature of land status in Alaska, final action by the State would be needed as soon as practicable consistent with the Legislature's need to have a thorough opportunity to review the proposal in sufficient detail to make responsible public policy. I believe we would be in a position during the first week of the session to thoroughly brief

members of the Legislature and make available to them any information we might have concerning the proposal. Under that scenario it would appear that 50 to 60 days should be sufficient time for the Legislature to thoroughly review the proposal, particularly in view of the already widespread publicity and general public awareness of the various aspects of the proposal.

I close with the request that action taken affirmatively and expeditiously on this matter as I believe it to be a unique, perhaps singular, opportunity to achieve a vital series of public and private objectives. It is important, and in my view, right.

Federal-State
Land Use Planning Commission
For Alaska

701 W. NINTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501

REC'D CIRI FEB 2 1976

ROUTE TO:	Info	Action	Initial	Date
PRESIDENT	✓			
GEN. MANAGER				
LAND DEPT.	✓			
VILLAGE COORDINATOR				
PUBLIC RELATIONS	✓			
LEGAL DEPT.				
CENTRAL FILES				
COPY FOR BOARD MEET.				
COPY FOR VILLAGES				

October 30, 1975

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

Dear Chairman Jackson:

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

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

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

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

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

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

Thank you for your consideration of this correspondence.

Sincerely,

Burt Silcock
/w

Burton W. Silcock
Federal Co-Chairman

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

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 20, 1976

The Honorable Nels A. Anderson, Jr.
Chairman
House Resources Committee
Alaska State Legislature
Pouch V Capitol Building
Juneau, Alaska 99811

Dear Chairman Anderson:

I would like to cooperate with the Senate and House Resources Committees in their efforts to evaluate the Cook Inlet-State of Alaska Land Trade.

However, I cannot grant your request of February 16 for a 30-day extension of the March 12 deadline because it is out of my power to do so. Subsection i of Section 12 of the Act incorporates by reference the terms of the agreement of the parties (see page 42 of the House Report accompanying 6644).

Three conditions must exist before the Secretary of the Interior may act, the first of which is that the State of Alaska, within 60 days of the effective date of the Act, January 12, 1975, must irrevocably commit to the transaction: "Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document."

I believe that it is not only unrealistic to expect the federal Congress to pass yet another bill, but also inappropriate for us to expect them to do so when a little extra energy and commitment by all of us can accommodate the March 12 deadline.

I assure you that I will do what I can to encourage the joint State-Federal Land Use Planning Commission to expedite their deliberation.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jay S. Hammond".

Jay S. Hammond
Governor



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 27 1975

Honorable Avrum M. Gross
Attorney General
State of Alaska
Department of Law
Pouch K
Juneau, Alaska 99011

Dear Mr. Gross:

This is in response to your inquiry of February 23, 1976. Specifically, you inquire whether lands described in subsection IC(2)(e) of Terms and Conditions for Land Consolidation and Management in Cook Inlet Area (H. R. 94-729, 94th Congress, 1st Session, December 15, 1975; hereinafter Terms and Conditions), may be transferred to the State of Alaska by the Federal Aviation Administration for airport purposes. It is our understanding that FAA has the authority to make such a transfer by virtue of the Airport and Airway Development Act of 1970, 49 U.S.C. §§1701-1741 (1970).

Subsection IC(2)(e) of Terms and Conditions provides that Cook Inlet Region, Inc., may not include certain lands, including Point Woronzof, in the selection pool created by this document. The subsection further provides that:

[S]uch lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this document.

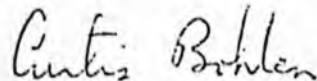
The issue is whether this provision precludes transfer of part of the Point Woronzof tract to the State of Alaska by the FAA for other than park and recreation purposes, if the transfer were otherwise authorized by law.



The Terms and Conditions must be read in conjunction with section 12 of P. L. 94-204, January 2, 1976. This section directs the Secretary, after certain conditions are met, to make a number of conveyances to Cook Inlet Region, Inc., and to the State of Alaska. The mandatory conveyances to the State of Alaska are described in paragraph (d) of section 12, and this paragraph refers to the Terms and Conditions to clarify the identities and amounts of lands to be conveyed to the state. Section 12 does not specifically direct the Secretary to convey Point Woronzof to the state for park and recreation purposes. Paragraph (b) of section 12 states that the duties and obligations of the United States and Cook Inlet Region, Inc., under the Terms and Conditions, are ratified as a matter of federal law.

We should note that it certainly was not the intention of the Departmental or State negotiators that the subject provision be construed as exclusive. And we are not aware of any reason why legislation authorizing a transfer of land to the state for park and recreation purposes should be construed as prohibiting a transfer of those lands to the state for airport purposes, if that transfer were also authorized by law. Apparently, the State of Alaska desires to receive part of Point Woronzof for airport purposes, rather than for park and recreation purposes. We see no impediment to such an action, if the proposed FAA action is authorized by law.

Sincerely,



E. U. Curtis Bohlen
Deputy Assistant Secretary for
Fish and Wildlife and Parks

March 3, 1976

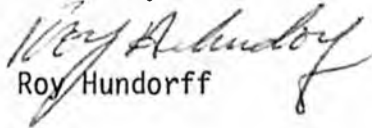
Representative Terry Gardiner
Juneau, Alaska

Dear Rep. Gardiner;

I want to make it clear for the record that Cook Inlet Region agrees with the state that nothing in the terms and conditions included in House Report 94-729 is intended to require a conveyance by the federal government that would preclude the use of Point Woronzoff by the state or the borough for public purposes including an airport runway.

We have joined the state in urging the Department of the Interior to issue an opinion that would confirm the needed flexibility in the state. It is my understanding that such a letter is on the way.

Sincerely,


Roy Hundorff

1

- 1. Special Act
- 2. Mineral Rights
- 3. Equal Value
- 4. "Left Field"

Original sponsor: Rules Committee by request of the Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 784

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Cook Inlet land exchange; and
7 providing for an effective date."

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

9 * Section 1. PURPOSE. The purpose of this Act is to provide for settle-
10 ment of certain claims and in so doing to consolidate land ownership among
11 the United States, the Cook Inlet Region, Incorporated, and the State of
12 Alaska in order to facilitate land management, to create land ownership
13 patterns which encourage settlement and development in appropriate areas, to
14 facilitate implementation of the Alaska Native Claims Settlement Act by re-
15 solving problems created in context of the Act by the concentration of
16 state patented land selected within the Cook Inlet region and to preclude the
17 need for regional selections that would impact important state interests.
18 The legislature finds the Cook Inlet land exchange is a matter of statewide
19 significance, is in the general public interest, will accomplish the
20 purposes set out and will both settle existing litigation and foreclose
21 possible protracted and devisive litigation.

22 * Sec. 2. APPROVAL OF TRANSFER. The governor is authorized to convey
23 to the United States for exchange with Cook Inlet Region, Incorporated, that
24 land described in Appendix C of the agreement entitled "Terms and Conditions
25 for Land Consolidation and Management in the Cook Inlet Area, December 10,
26 1975" set out in House of Representatives Report No. 74-729, 94th Congress,
27 First Session in accordance with the conditions of that agreement. The
28 conveyance shall pass all the state's right, title and interest in the land,
29 including the mineral subsurface estate notwithstanding any other provisions

subsurface mineral rights
38.95.060 - equal value exchanges

CSHB 784

of law.

General Res.

Equal Value

1 # Sec. 3. WAIVERS. The provisions of AS 38.05.125 and 38.95.060(c) do
2 not apply to a conveyance made under this Act.

3 # Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).
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Federal-State
Land Use Planning Commission
For Alaska

701 W. MOUNTAIN AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501

dup

REC'D CIRI FEB 2 '76

October 30, 1975

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

ROUTE TO:	Info	Action	Initial	Date
PRESIDENT	✓			
GEN. MANAGER				
LAND DEPT.	✓			
VILLAGE COORDINATOR				
PUBLIC REL. OFFICER	✓			
LEGAL DEPT.				
CENTRAL FILES				
COPY FOR BOARD MEMS.				
COPY FOR VILLAGES				

Dear Chairman Jackson:

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

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

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

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

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

Thank you for your consideration of this correspondence.

Sincerely,

Burt Silcock
BW

Burton W. Silcock
Federal Co-Chairman

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

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Alaska State Legislature
Senate

POUCH V
JUNEAU, ALASKA 99811

February 16, 1976

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch A, State Capitol
Juneau, Alaska 99811

Dear Governor Hammond,

Following several days of comprehensive hearings in Anchorage and Juneau, many questions relating to the Cook Inlet - State of Alaska land trade remain unresolved.

The joint Senate and House Resources Committees are now sifting the testimony received. In addition, we have requested the joint State-Federal Land Use Planning Commission to thoroughly examine the matter and report its findings to the Legislature. I am sure that you too would welcome their researched and reasoned contribution.

We are advised by both the Federal and State co-chairmen that they cannot complete their report prior to March 10th. This is only two days before the date given to the Legislature to comply with your request that it render either approval or disapproval on the matter.

Therefore, we respectfully request that you assist in securing a 30 day extension to the Legislature, so that it can complete its own work toward a reasoned decision of acceptance or rejection of the Terms and Conditions of the land trade between the State of Alaska and the Cook Inlet Regional Corporation.

Sincerely yours,

Kay Poland Nels A. Anderson, Jr.
State Senator Representative

KP:ss

CC: Chancy Croft, Senate President
Mike Bradner, Speaker of the House
Mr. David Jackman
Mr. Burton Silcock

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 20, 1976

The Honorable Kay Poland
Chairperson
Senate Resources Committee
Alaska State Legislature
Pouch V Capitol Building
Juneau, Alaska 99811

Dear Kay:

I would like to cooperate with the Senate and House Resources Committees in their efforts to evaluate the Cook Inlet-State of Alaska Land Trade.

However, I cannot grant your request of February 16 for a 30-day extension of the March 12 deadline because it is out of my power to do so. Subsection 1 of Section 12 of the Act incorporates by reference the terms of the agreement of the parties (see page 42 of the House Report accompanying 6644).

Three conditions must exist before the Secretary of the Interior may act, the first of which is that the State of Alaska, within 60 days of the effective date of the Act, January 12, 1975, must irrevocably commit to the transaction: "Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document."

I believe that it is not only unrealistic to expect the federal Congress to pass yet another bill, but also inappropriate for us to expect them to do so when a little extra energy and commitment by all of us can accommodate the March 12 deadline.

I assure you that I will do what I can to encourage the joint State-Federal Land Use Planning Commission to expedite their deliberations.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay S. Hammond", written over the word "Sincerely,".

Jay S. Hammond
Governor

**TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN
THE COOK INLET AREA, DECEMBER 10, 1975**

I. The United States shall convey to Cook Inlet Region, Inc., the following lands:

A. Sixteen (16) sections of land, as described in Appendix A, presently within the boundaries of the Kenai National Moose Range, excluding the bed of Lake Tustumena, but to be removed from the boundaries of the Range. The conveyance of these lands shall be subject to the following conditions:

(1) Included in the lands described in this paragraph shall be a restricted zone of lake front and river front lands, not to exceed an average of 160 acres per linear mile, to be measured from the high water line, the exact boundaries to be determined by mutual agreement between CIRI and the Secretary no later than September 1, 1976. The conveyance of the lands within this zone shall contain the following restrictions so long as Lake Tustumena remains a part of the Range:

(a) A restrictive covenant running with the land which provides that no development shall take place or facilities be

constructed within the zone, except those which are directly necessary to support water dependent activities, such as a boat dock, airplane tie-up and marina. Reasonable access to these facilities will be permitted. It is contemplated that a lodge may also be located within the restricted zone, provided, however, that the lodge shall be of such a design, size and at a location agreed upon by the United States Fish and Wildlife Service. CIRC must submit a request in writing to the Fish and Wildlife Service for approval of any construction or development within the zone, which approval will not be unreasonably withheld. The Fish and Wildlife Service will notify CIRC of its decision on any such request within 120 days of receipt of such request, and failure of any response will be considered as approval.

(b) a provision that CIRC will not sell the lands to any third party for a period of 25 years from the date of the conveyance, without the consent of the Secretary.

(c) a provision that CIRC and its assigns will offer the United States the right of first refusal to purchase the lands if the lands are ever sold. The right of first refusal shall be for a period of 120 days from the date of notice in writing to the United States that the owner of the land has received a bona fide offer of purchase. The United States shall not be deemed to have exercised its right of first refusal if the owner does not consummate this sale in accordance with notice to the United States.

(d) the conveyance of the lands comprising this restricted zone shall not include the bed of Lake Tostanema and shall only convey the surface estate to CIRC. The United States shall retain the rights in oil and gas and all minerals, including but not limited to common varieties of minerals.

(e) the United States reserves the right of re-entry on these lands to be exercised upon occurrence of the following conditions:

(1) The United States obtains a final judgment in a proceeding in law or equity to enforce in whole or in part the restrictive covenants contained in the conveyance of the lands described in this section; and

(2) subsequent to such final judgment, the United States institutes proceedings in law or equity to enforce the provisions of the restrictive covenants which were the subject of the final judgment obtained in subparagraph (1) of this paragraph. The right of re-entry shall be asserted in such subsequent action but may not be actually exercised except upon and in accordance with the final judgment in favor of the United States in such subsequent action.

(3) such right of re-entry shall be limited, in any case, to the lands which were the subject of the final judgment referred to in subparagraph (1) hereof.

(2) The remainder of the lands described in Appendix A shall be conveyed to CIRC without restriction, other than the reserva-

tion of those easements authorized by 17(b) of ANCSA or other applicable federal statutes. The conveyance of such remainder shall include both the surface and the subsurface estates to such lands.

B. Three and fifty-eight one hundreds (358) townships of the subsurface estate to oil and gas and coal as identified in Appendix B; provided that the United States shall retain all other minerals including but not limited to common varieties of minerals; and provided that the right to extract coal shall be conditioned upon the opening for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. The extraction of oil and gas and coal shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by CIRI, its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction. The United States shall make available to CIRI, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect. By mutual consent of CIRI and the Secretary, CIRI may exchange any interest described in this paragraph for other mineral interests of equal value outside the boundaries of the Kenai National Moose Range.

(1) All federal lands and interests in lands within the following:

(a) T. 10 S., R. 9 W., E. M. (Healy); and

(b) T. 20 N., R. 9 E., S. M. (Glenn Highway).

(2) T 1 N R 21 W, S. M. (sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36). The Secretary shall only convey the rights to metalliferous minerals in the land herein described. Extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary. Surface use of the purposes of exploration, extraction, access and beneficiation shall be conducted in accordance with the most advanced technology commercially available at that time consistent with the exercise of the rights conveyed under this subparagraph. CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights.

(3) T 1 S, R 21 W, S. M. (Sections 3-10, 15-22, 29 and 30). The Secretary shall transfer to CIRI the above described lands in fee simple. Such conveyance shall be subject to a restrictive covenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRI an easement for a port which shall reasonably provide for receiving, shipping, storage and incidental handling, and incidental facilities thereto, of the minerals extracted from the lands conveyed under

this subparagraph. The Secretary shall also convey to CIRI a transportation easement to provide for transportation by road, rail or pipeline, of the minerals from the above described lands to the port easement. The Secretary and CIRI shall mutually agree upon the location of the port and transportation easements.

C. (1) Twenty nine and sixty six one hundredths (29.66) townships from any federal public lands withdrawn under sections 11(a)(1), 11(a)(3), and 17(d)(1) without the exterior boundaries of Cook Inlet Region; to be identified in the manner herein provided; provided that if CIRI's total entitlement under Section 12(e) of ANCSA is determined to be greater or less than 54 townships, the number of townships to be conveyed under this paragraph (hereinafter out-of-Region entitlement) shall be increased or decreased one for one.

(a) lands to be nominated and conveyed under this paragraph C-1 shall be limited as follows: The entitlement shall be satisfied from lands within Alutka Region, Bristol Bay Region, Calista Region, Chugach Region, and Doyon Region. With the concurrence of the Secretary and the State and any affected Region other than those described above, selections may be made from one or more of the other Regions, on the basis hereinafter described or on such other basis as the parties shall contemporaneously agree. CIRI shall not nominate any of the following:

(1) lands located west of the 161 degree west longitude of Greenwich Meridian

(2) lands within Areas of Environmental Concern as described in the Secretary's 1973 Four Systems proposals to Congress

(3) lands within any of the Secretary's 1973 Four Systems proposals to Congress

(4) lands made available to the State for selection pursuant to Sections 2 and 5 of the State-Federal Agreement of September 1, 1972.

(b) By May 1, 1976 the Secretary shall, after consultation with the State, submit to CIRI a list of areas where approval of out-of-Region selections is unlikely. CIRI may thereafter nominate to the Secretary, with simultaneous notice to the State, a township or townships for selection. Within 120 days after such nomination, the Secretary after consultation with the State shall approve or disapprove it for withdrawal for placement in the selection pool as described herein. By October 18, 1978 CIRI must nominate at least 6 times its remaining out-of-Region entitlement. If the Secretary fails to approve a pool of three times that remaining out-of-Region entitlement from said nominations, then he and CIRI, by mutual consultation and study, shall agree by January 18, 1979 on sufficient additional townships to compose that number. The Secretary must, on that date, report to Congress as to the operation of this selection mechanism, and the need for remedial legislation, if required. Upon completion of the pool, the State and CIRI shall commence a striking and selecting process. The State may strike ten percent of the pool and the Region may select a number of townships equal to ten percent of the original pool. Alternate strikes and selections of five percent of the

original pool shall continue until CIRI's out-of-Region entitlement is, as defined in this paragraph, satisfied. The State and CIRI must complete this process within four months of completion of the pool. Notwithstanding the foregoing, with the consent of the United States, State of Alaska, and CIRI, lands may be conveyed without resort to the pool and striking mechanism herein provided, or in the manner described in subparagraph 2 of this paragraph C, in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Statehood Act which may be affected by this paragraph C, provided however, that any Regional nomination made hereunder shall be superior to and take precedence over any such State selection made after July 13, 1975. None of those lands selected by the State under the Statehood Act after July 18, 1975, and also nominated by CIRI pursuant to this paragraph C, shall be tentatively approved for patent to the State by the Department of the Interior for so long as these lands are potentially available to CIRI under this subparagraph unless CIRI has consented to such tentative approval.

(d) Lands approved by the Secretary for the out-of-Region pool shall, as of the date of such approval, be withdrawn from all forms of entry and location under the Public Land Laws including the mining and mineral leasing laws, but not from selection by the State, for so long as the said lands shall be included in the said pool.

(e) Prior to nomination of any townships for secretarial approval, the Region shall obtain the consent of other Native Corporations where applicable, and a copy of such consent shall be attached to such nomination.

(f) CIRI shall select its out-of-Region entitlement in blocks no less than 36 sections in size, along section lines, with no segment of an exterior line less than six miles in length, unless the Secretary specifically authorizes another manner of selection.

(g) CIRI may, with the consent of the Secretary and the State, select that portion of the mineral estate reserved by the United States in a township if the remainder of the estate may not be legally or readily available for selection, in which case, however, such substitute selection shall be treated as full satisfaction of the entitlement represented by the acreage involved and no additional selection rights shall arise by reason of the lack of conveyance of the entire estate.

(h) It is the intent of the Secretary and the State that all out-of-Region selections shall be as compact as is practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately owned lands.

(i) Nothing in this paragraph shall be construed as limiting any Congressional review and approval of the Secretary's 1973 four systems proposals to Congress.

2(a) The Secretary, in conjunction with the General Services Administrator, shall promptly identify and take the necessary steps by

January 15, 1978, to create a selection pool which shall consist of all the following lands, within the exterior boundaries of the Cook Inlet Region, now in existence or hereafter coming into existence by January 15, 1978:

(i) abandoned or unperfected public land entries, provided however, that the United States shall not be obligated to initiate any adversary proceedings other than an adjudication by the BLM to determine if such entries are abandoned or unperfected, and the burden of identifying such lands shall be on CIRI;

(ii) federal surplus property;

(iii) revoked federal reserves;

(iv) cancelled or revoked power site reserves, with the exception of the Bradley Lake reserve, reserves in the Lake Clark proposal, and the Chakachamna Lake reserve, if any are ever cancelled or revoked;

(v) public lands created by the reduction of federal installations as defined in Section 3(e) of ANCSA, except that, if such lands are within a Section 11(a)(1) withdrawal area, they shall be subject to prior Village Corporation selections properly filed prior to December 18, 1975; and

(vi) any other federal lands as agreed by the State the Region and the Secretary, including but not limited to lands withdrawn under Section 17(d)(1) of ANCSA and not withdrawn for any other purpose.

The Secretary shall notify CIRI after any above-described lands have been placed in the pool. With the concurrence of CIRI, the State and any other concurrence that may be required under paragraph 1-C(1)(e) of this Document, the Secretary may, in his discretion, contribute to such pool properties of one or more of the foregoing categories from without the boundaries of the Cook Inlet Region, provided that properties described in subparagraphs (2)(a)(ii) and (2)(a)(iii) of this paragraph shall be removed from the pool if not selected by CIRI within 90 days after the Secretary notifies CIRI that such properties have been placed in the pool or valued by the Secretary in Subparagraph 2(c) of this document whichever date is later.

(b) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph 2(a) and may require Secretarial consultation with the Joint Land Use Planning Commission with respect to any specific piece of property so included, except those in subparagraph 2(a)(i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land-management principles; provided, that the Secretary shall not be bound by any recommendation of the Joint Land Use Planning Commission. The Secretary shall notify the State, CIRI and the Commission of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres, described in paragraph 2(a)(i) and 2(a)(iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal values. Lands not included in the pool as result of the State's conclusive objection or which have been replaced by the

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State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

(c) Unless specifically excepted by the Secretary, all tracts of land and improvements thereto in said pool shall be appraised by one or more appraisers mutually agreeable to CIRI and the Secretary.

(d) CIRI shall be entitled to select any tract of land from said pool in exchange for its out-of-Region selection rights, in part or in whole and *pro tanto*, in satisfaction thereof, in the following manner:

(1) any tract of land and improvements thereto specifically excepted from appraisal by the Secretary as described in subparagraph (c) of this paragraph may be exchanged acre for acre;

(2) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at less than \$500 per acre at fair market value may be exchanged acre for acre;

(3) any tract of land and improvements thereto valued by CIRI and the Secretary, after review of the appraisals, at \$500 per acre or more at fair market value shall be exchanged as follows:

(i) for each acre of land in said tract, each valued increment of \$500 or proportion thereof shall be considered an acre of land or proportion thereof, in the same proportion, hereinafter called an "acre/equivalent"; and

(ii) any acre/equivalents may be exchanged for any acres of CIRI's out-of-region entitlement.

(e) Anything in the foregoing provisions notwithstanding, the selection pool created hereunder shall not include or affect lands within the Point Woronzof, Point Campbell, Goose Lake, and Campbell tracts, to which CIRI waives any claim which it may have had; and such lands shall be reserved by the United States for early conveyance to the State for park and recreation purposes as an integral part of the consideration for this Document.

(f) The Secretary shall utilize his best efforts to maximize the pool through the use of all available properties within the described categories in order to enhance the opportunity for the land exchanges described herein. If, by January 15, 1978, the Secretary and the General Services Administrator have not identified for the pool at least 138,240 acres, or acre/equivalents of lands within the exterior boundaries of Cook Inlet Region, the Secretary shall add to the pool an amount equal to the difference between 138,240 acres, or acre/equivalents, and the number of acres so identified from the following:

(1) with the consent of the State, lands located within the boundaries of the Region, withdrawn for the purposes of section 17(d)(1) of ANCSA, and valued by the Secretary and CIRI at \$200 per acre, or more,

(2) with the consent of the State and CIRI, lands described in subparagraph I-C(2)(a) of this Document from without the exterior boundaries of Cook Inlet Region.

CIRI must select all lands in the pool located within the Region which are valued by the Secretary and CIRI at \$200 per acre, or more, until CIRI has selected 138,240 acres, or acre/equivalents as described in subparagraph 3(i) of this paragraph.

(g) No later than 90 days following the conclusion of the period for creation of the pool as specified in subparagraph (1) hereof, the Secretary shall, with the assistance of the General Services Administrator, report to Congress on the status of the conveyances under paragraph C and the need for remedial legislation, if required.

(h) Conveyances under this subparagraph I-C(2) shall not be subject to the provisions of Section 22(1) of ANCSA.

II. Upon consent by the State of Alaska to be bound by the terms and conditions of this Document, which consent must be given, if at all, within 60 days of the commencement of the 1976 Session of the Alaska State Legislature, the State of Alaska shall convey to the United States for reconveyance to CIRI the lands described in Appendix C to this Document. Said lands shall be considered State lands until the United States accepts the State deed of title. Upon acceptance of a State deed of title, the Secretary shall withdraw the lands conveyed thereby, 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, as amended; such withdrawal to expire upon reconveyance of said lands to CIRI.

III. A. The Secretary shall convey to the State of Alaska all right, title and interest of the United States in and to all of the following lands:

(i) At least 22.8 townships and no more than 27.0 townships of lands from those presently withdrawn under section 17(d) (2) of the Alaska Native Claims Settlement Act in the Lake Iliamna area and within the Nushagak River and Koksetna drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to Appendix D hereof; and

(ii) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in Appendix E hereof.

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act; provided, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6 of the Alaska Statehood Act.

B. The Secretary shall convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in Appendix F hereof except for one compact unit of land which he determines, after consultation by the State of Alaska, is actually needed by the Bureau of Land Management for its present operations; provided, that in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in conformance with the generalized land use plan outlined in the Far North Bicentennial Park master development plan of September, 1974.

As a result of Section 12(a) of ANCSA, selections by Village corporations within the Kenai National Moose Range, or as a result of any section 14(h) (1), (2) or (5) of ANCSA selections within the Kenai National Moose Range or within the Secretary's 1973 Lake Clark proposal; and to the extent that CIRI's section 12(a) of ANCSA subsurface rights are reduced by virtue of exchanges resulting in the relinquishment of village selections in the Secretary's 1973 Lake Clark proposal or lands in paragraph VI CIRI shall take, in lieu thereof, an equal acreage from the following:

(a) The subsurface estate to oil and gas and coal in those lands described in Appendix B to the extent that such interests are not transferred under paragraph I-B of this Document, and are subject to the restrictions therein described; and

(b) Up to 46,080 acres of lands within section 11(a)(3) of ANCSA withdrawals in the Talkeetna Mountains; provided CIRI shall make all 12(b) selections in this withdrawal contiguous to existing 12(a) selections, first selecting all over-selected 12(a) lands in this withdrawal.

(c) If sufficient acreage to satisfy any such selections does not exist in those areas described in subparagraphs (1) and (2) of this paragraph, the Secretary shall make available lands outside the Region, in his discretion, for selection by CIRI.

Except as provided otherwise in this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act; provided, however, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

C. The Secretary shall make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described in Appendix G.

IV. The lands and interests conveyed to CIRI under paragraphs I and II of this Document shall constitute CIRI's full entitlement under Section 12(c) of ANCSA, except that the mineral estate conveyed pursuant to subparagraph I-B of this Document shall constitute full entitlement of CIRI's surface and subsurface entitlement under Section 14(h) (8) of ANCSA. The lands which would comprise the difference in acreage between the lands actually conveyed under paragraphs I and II of this Document, and any final determination of what CIRI's acreage rights under Section 12(c) and 14(h) (8) of ANCSA would have been notwithstanding the provisions of this Document, shall be retained by the United States, and this Document shall create no right or interest in any other Regional Corporation or Village Corporation notwithstanding any provisions of ANCSA to the contrary.

To the extent that CIRI is or becomes entitled to subsurface rights:

V. The Secretary, CIRI, and the State shall seek legislation authorizing the Secretary to convey title to those selections by Native Corporations within the exterior boundaries of Power Site Classifica-

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tion 443. February 13, 1958, provided however, that the patents conveying the above described lands shall contain the reservations required by Section 24 of the Federal Power Act, 16 U.S.C. 818.

VI. A. The State shall not select any of the following lands, so that such lands may be added to a management unit in the Lake Clark Area:

- T 4 S R 23 W (N $\frac{1}{2}$), S.M.
- T 3 S R 20-24 W, S.M.
- T 2 S R 24-25 W, S.M.
- T 1 S R 24-26 W, S.M.
- T 1 S R 27 W (sections 1-6, 8-15, 23-25), S.M.
- T 1 S R 28 W (sections 1-6), S.M.
- T 1 S R 29 W (sections 1-6), S.M.
- T 1 N R 24-29 W, S.M.
- T 2 N R 24-30 W, S.M.
- T 3 N R 28-30 W and 31 W (E $\frac{1}{2}$), S.M.
- T 4 N R 30 W and 31 W (E $\frac{1}{2}$), S.M.

B. The Secretary, CIRI and the State recognize that there are nationally significant resources in the Lake Clark area. Management of this area should be flexible and recognize the scenic, recreational, and inspirational resources that should be preserved as well as State and local interests including subsistence and sport hunting.

VII. A. In fulfillment of its obligation to equitably reallocate acreage among villages pursuant to section 12(b) of the Act, CIRI shall allocate section 12(b) selections to the following areas:

1. Four and one-half townships in the Talkeetna Mountain withdrawal, provided that such selections shall be compact and contiguous to 12(a) selection in said withdrawals and 12(a) overselections shall be selected first;

2. All lands that will not otherwise be conveyed to the villages under 12(a) on the Iniskin Peninsula;

3. To the extent necessary to fulfill any remaining 12(b) entitlement lands within the following:

- T 7 S, R 25 & 26 (Except Secs. 29-31) W, S.M.
- T 6 S, R 25 W and 26 (E $\frac{1}{2}$) W, S.M.
- T 5 S, R 25 W, S.M. (except sections 18, 19, and 30).
- T 4 S, R 24 W (S $\frac{1}{2}$), S.M.
- T 4 N, R 19 W, S.M.
- T 4 N, R 20 W (E $\frac{1}{2}$) S.M.
- T 4 N, R 18 W (W $\frac{1}{2}$) S.M.
- T 3 N, R 17-20 W, S.M.
- T 3 N, R 21 W (Secs. 31-36, and 25-30 in the Tuxedni River Watershed), S.M.
- T 2 N, R 18-20 W, S.M.
- T 2 N, R 21 W (North and East of the Tuxedni River and Bay), S.M.

B. By mutual consent of the Secretary and CIRI, Village Corporations within the Region may exchange selections or selection rights under section 12 of ANCSA for acres, or acre/equivalents contained in the pools established out in paragraph I-C(2)(a) of this document.

C. Up to two townships without the exterior boundaries of Cook Inlet Region, to be mutually agreed upon by the Secretary, CIRI, and

the State, shall be made available for 12(b) selection. To the extent acreage is allocated to a Native village pursuant to this subparagraph C, the village must have an equal amount of acreage, in section units, from 12(a) selections in the hereinafter described acres on an acre-for-acre basis outlined in this subparagraph in the out of Region townships identified in this paragraph:

- T 4 S, R 23 W (N $\frac{1}{2}$) S.M.
- T 3 S, R 20, 21, and 23 W, S.M.
- T 2 S, R 19-21 W, S.M.
- T 1 S, R 19-21 W, S.M.
- T 1 N, R 20 W, S.M.

Provided that should the respective village not have any 12(a) selections in the above, 12(a) selection for the following shall be traded under the provision of this paragraph:

- T 2 N, R 18-21 W, S.M.
- T 3 N, R 18-20 W, S.M.
- T 4 N, R 19-21 W, S.M.
- T 5 N, R 19-20 W, S.M.

VIII. A. CIRI and the Secretary shall publicly support the establishment of a unit of the National Park System in the Lake Clark area including those lands withdrawn under section 17(d)(2) of ANCSA and those lands described in paragraph VI-A of this agreement. The Secretary and CIRI shall also agree to seek a provision in said legislation that would provide that before entering into any contract arrangement to provide new revenue producing services within the proposed Lake Clark Unit of the National Park System within the boundaries of the Cook Inlet Region, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days. CIRI and the Secretary shall seek legislation that provides that the United States may acquire lands selected by Village Corporations within the boundaries of the Lake Clark unit established by that legislation, but only with the consent of the appropriate Village Corporation.

B. CIRI and the Secretary shall publicly support the establishment of the Caribou Hills, Swanson River, Mystery Creek, and Andy Simons Wilderness Areas within the Kenai National Moose Range. CIRI and the Secretary shall seek a provision in such legislation that would provide that before entering into any contract or agreement to provide new revenue producing services within the Kenai National Moose Range, the Secretary shall offer to CIRI in cooperation with Village Corporations within the Region when appropriate, the right of first refusal to provide such services, the right to remain open for a period of ninety days.

IX. Lands conveyed to CIRI and/or its Village and Group Corporations in accordance with this document, notwithstanding their source (whether federal or state), shall upon conveyance to CIRI and/or the appropriate Village or Group Corporation, be considered and treated as conveyances under and pursuant to ANCSA, except as may be expressly provided otherwise in this document.

X. As soon as practicable after any estate or interest in federal lands to be patented to CIRI in accordance with this document is identified,

CIRI and the Secretary shall review all leases, contracts, permits, rights-of-way and easements covering or concerning such estate or interest to determine whether the administration thereof may be waived by the Secretary, in his discretion, in accordance with the provisions of section 17(g) of ANCSA.

XI. Effective the date that State lands to be conveyed to the United States for CIRI are designated by CIRI pursuant of paragraph II of this document, the State, if so authorized, shall place all revenues received from such lands in escrow to be transferred to the Region when appropriate. The administration of all leases, contracts, permits, rights-of-way and easements prior to the conveyance of such lands to the United States shall be by the State, except that all decisions concerning modification, conversion, renewal or appraisal of such interests will be with the concurrence of the Region. Effective the date of conveyance of such lands from the State to the Secretary, the State shall waive in favor of CIRI administration of all leases, contracts, permits, rights-of-way and easements totalling embraced by such lands. The State shall give timely written notice of the change of ownership and administration to the holders of rights on such lands.

XII. The responsibilities of and benefits accruing to the Secretary, the State and CIRI under this document shall become binding only when such legislation as is necessary has been enacted. Upon passage of such legislation, CIRI and all plaintiffs/appellants shall, with the consent of the Secretary, dismiss their pending appeal in *Cook Inlet Region vs. Kleppe*, No. 75-2232, (9th Cir.) by executing and filing pursuant to Rule 42(h) of the Federal Rules of Appellate procedure an agreement that the proceeding may be dismissed.

XIII. A. For the purposes of this document, a township shall be considered 23,040 acres.

B. The words "land" and "lands" as used in this document shall not include properties owned by the State of Alaska under section 6(m) of the Alaska Statehood Act and the Submerged Lands Act.

APPENDIX A

T. 1 N., R 11 W S.M.

Secs. 1-4, 9-12, 16, W1/2S17—comprising approx. 6,080 acres, more or less

T. 2 N., R 11 W S.M.

Sec. 9, approx. 70 acres in the SW1/4 lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 16, approx. 430 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 21, all.

Sec. 22, approx. 130 acres comprising all moose range lands in this section lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 27, approx. 330 acres comprising all moose range lands in this section lying west of the high water mark on the west bank of the Kasilof River and those lands in this section lying south and west of the high water line on the south and west shore of Tustemena Lake.

Sec. 28, all.

Sec. 33, all.

Sec. 34, approx. 600 acres comprising all moose range lands in this section lying south and west of the high water line on the south shore and west shore of Tustemena Lake.

Sec. 35, approx. 290 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.

Sec. 36, approx. 360 acres comprising all moose range lands in this section lying south of the high water line on the south shore of Tustemena Lake.

Comprising approximately 4,160 acres, more or less.

APPENDIX B

APPENDIX B-1

82,560 acres of the specified mineral estate to be selected from the following described lands:*

Priority

1—T. 8 N., R. 9 W.: Secs. 1-8; Sec. 9 excluding E/2 SE/4, NW/4 SE/4, SE/4 NE/4; Sec. 10 excluding SW/4, S/2 SE/4, NW/4 SE/4, S/2 NW/4, NW/4; Secs. 11-14; Sec. 16 W/2; Secs. 17-20; Sec. 21 excluding NE/4, E/2 NW/4, NE/4 SW/4, N/2 SE/4, SE/4 SE/4; Secs. 23-26; Sec. 27 excluding N/2 SW/4, W/2 SE/4; Sec. 28 excluding SE/4, E/2 SW/4, E/2 NE/4, SW/4 NE/4; Secs. 29-31; Sec. 32 excluding S/2 SE/4, NE/4 SE/4, Sec. 33 excluding S/2, NE/4, S/2 NW/4, NE/4 NW/4; Sec. 34 excluding W/2, W/2 NE/4; Secs. 35-36-comprising approx. 18,440 acres.

1—T. 8 N., R. 10 W.: Secs. 1; 12-14; 23-26; 32-36-comprising approx. 7,680 acres.

1—T. 7 N., R. 9 W.: Sec. 3, E/2; Sec. 5 excluding S/2, NE/4; Secs. 6; 7; 8 excluding E/2, E/2 SW/4, E/2 NW/4, NW/4 NW/4; Sec. 10 excluding W/2 SW/4, W/2 NW/4, NE/4 NW/4; Sec. 14 excluding NE/4; Sec. 15; Sec. 16 excluding NW/4, N/2 NE/4, SW/4 NE/4; Sec. 17 excluding NE/4 NE/4; Secs. 18-36-comprising approx. 16,560 acres.

1—T. 7 N., R. 10 W.: Secs. 1-5; 7-25; Sec. 26 excluding W1/2 SW1/4; Sec. 27 excluding S1/2 N1/2; Sec. 28 excluding S1/2 NE1/4, SE1/4, E1/2 SW1/4; Secs. 29-32; Sec. 35 excluding W1/2, S36 comprising approx. 19,920 acres.

2—T. 6 N., R. 10 W.: Sec. 1; Sec. 2 excluding W/2 NW/4; Sec. 4 excluding N/2, SE/4, E/2 SW/4; Sec. 5-8; Sec. 9 excluding N/2 NE/4; Sec. 12; 16-17; 20-21-comprising approx. 7,600 acres.

4—T. 7 N., R. 11 W., Sec. 23-26; 35; 36-comprising approx. 3,840 acres.

3—T. 6 N., R. 11 W., Sec. 1-2; 11-14-comprising approx. 3,840 acres.

3—T. 10 N., R. 7 W., Sec. 19-21; 28 (N/2); 29-82-comprising approx. 4,800 acres.

*These lands total approximately 82,680 acres (5.58 townships). Any unselected portions of the above described lands shall be first priority selection for in-lieu selections from Appendix B-2 below.

APPENDIX B-2

Up to 138,240 acres (6.0 townships) of specified mineral in lieu estate to be selected from the following described lands by priority ranking and in the order listed.

Priority

2—T. 9 N., R 9 W.: Sec. 13; 23 excluding SE/4 SE/4; Sec. 24 excluding W/2 SE/4, SW/4; Sec. 25 excluding W/2 E/2, W/2; Sec. 26 excluding E/2 E/2; Sec. 27; Sec. 31 E/2; Sec. 32-35; Sec. 36 excluding W/2 NE/4, NW/4, and N/2 SW/4—comprising approx. 6,120 acres.

3—T. 9 N., R 8 W.: Sec. 1-5; 7-36—comprising approx. 22,400 acres.

2—T. 6 N., R 9 W.: Sec. 1-17; 20-29; 34-36—comprising approx. 19,200 acres.

3—T. 8 N., R 8 W.: All—comprising approx. 23,040 acres.

2—T. 4 N., R 10 W.: Sec. 9-10; 13-36—comprising approx. 16,640 acres.

2—T. 4 N., R 11 W.: Sec. 25; 36—comprising approx. 1,280 acres.

3—T. 1 N., R 11 W.: Sec. 17 (E/2); Sec. 21-28; Sec. 33-36—comprising approx. 6,720 acres.

3—T. 3 N., R 11 W.: Sec. 1; 12-15; 22-27; 34-35—comprising approx. 8,320 acres.

3—T. 8 N., R 10 W.: Sec. 1-30—comprising approx. 19,200 acres.

3—T. 4 N., R 9 W.: Sec. 2 excluding SE/4; 3-10; 11 excluding E/2; Sec. 14 excluding E/2; 15-20; 21 excluding SE/4; 29-34—comprising approx. 12,480 acres.

APPENDIX C

If CIRI has on or before January 12, 1976 presented evidence satisfactory to the State that the villages of Kink, Chickaloon, Alexander Creek, 7 milelik and Salamatof have withdrawn selection applications for and relinquished all claims to land in the Lake Clark, Lake Kontrashibuna and Malchatna River areas, the State shall convey under paragraph H of this document to the United States for reconveyance to CIRI all of the state lands identified or to be identified in this Appendix C. All conveyances of lands made in accord with this document shall pass all of the State's right, title and interest in the lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway or other rights-of-way may be reserved to the State.

1. Acreage from each of the five pools identified in this paragraph in the amounts therein set forth. Out of each such pool, the identity of the required acreage shall be determined to the extent possible by mutual agreement of the State and CIRI. For so many of the required acres as have not been so determined by agreement in each pool within eighteen months following implementation of this document, those remaining required acres shall be identified by CIRI's selecting acreage in that remaining amount from an array of 1½ that many acres within the pool, said array to be identified to CIRI by the State.

A. *Point McKenzie*.—3,200 acres must be identified from state lands within the following areas:

T 15 N, R3 W through 5W, S.M.

T 14 N, R4 W through 5W, S.M.

T13 N, R4 W S.M. (North of Knik Arm)

B. *Knik-Willow Pool*.—4,480 acres must be identified from state-lands within the following areas:

T 16 N through 18 N, R 2W through 5W, S.M.

C. *Kashwitna Pool*.—38,040 acres must be identified from state-lands within the following areas:

T 21 N through 25N, R3 and 4W, S.M. (or other nearby lands).

D. *Chickaloon Pool*. 4,480 acres must be identified from state lands within the following areas:

T 19 N, R3 E through 5E, S.M.

T 20 N, R4 E through 7E, S.M.

E. *Kenai Pool*.—115,200 acres must be identified from state lands on the Kenai Peninsula.

Provided however that the State may with CIRC's concurrence supplant acreage otherwise to be identified from the Kenai pool in subparagraph E on an acre-for-acre basis with lands near Alexander Creek, Nimilehik or Salamatof. Supplanting lands near any one of these villages may not exceed in acreage that number of acres to which the State is obligated under paragraph 3 to provide in respect of each of those three villages.

2.(a) Thirteen and one-half townships of lands in the Beluga Area townships listed in this paragraph. The identity of those lands shall be determined by CIRC within eighteen months following the implementation of this document by nomination of compact units no less than $\frac{1}{4}$ township in size lying along township lines, provided that where constrained by selection pool boundaries or water bodies they may be smaller; *Provided*, However that if Tyonek Corporation desires to trade the surface estate it holds in the Kenai National Moose Range for State surface lands within the vicinity of its village lands but within CIRC's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRC's selection pool lands, CIRC shall select an equivalent acreage of other surface estate from within its selection pool.

T. 16 N., R. 14 W., S.M.;

T. 16 N., R. 13 W., S.M.;

T. 16 N., R. 12 W., S.M., Secs. 7, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;

T. 16 N., R. 11 W., S.M., Secs. 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36;

T. 15 N., R. 14 W., S.M.;

T. 15 N., R. 13 W., S.M.;

T. 15 N., R. 12 W., S.M.;

T. 15 N., R. 11 W., S.M.;

T. 15 N., R. 10 W., S.M., W $\frac{1}{2}$, excluding Sec. 4;

T. 14 N., R. 15 W., S.M.;

T. 14 N., R. 14 W., S.M.;

T. 14 N., R. 13 W., S.M., W $\frac{1}{2}$;

T. 14 N., R. 11 W., S.M.;

T. 14 N., R. 10 W., S.M., W $\frac{1}{2}$;
T. 13 N., R. 15 W., S.M.;
T. 13 N., R. 14 W., S.M.;
T. 13 N., R. 10 W., S.M., E $\frac{1}{2}$ excluding lands east of the west
bank of the Beluga River;
T. 12 N., R. 15 W., S.M.;
T. 12 N., R. 14 W., S.M., excluding Secs. 23, 24, 25, 26, 29, 31,
32, 33, 36;
T. 12 N., R. 10 W., S.M.;
T. 11 N., R. 13 W., S.M., Secs. 12, 13 excluding W $\frac{1}{2}$ SW $\frac{1}{4}$;
24 NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 11 N., R. 12 W., S.M., Secs. 18, 19 excluding SW $\frac{1}{4}$, S $\frac{1}{2}$
SE $\frac{1}{4}$; 20.

(b) Provided, However, that the following described lands shall
not be available for CIRI's selection of *subsurface* estate:

Beluga

T. 13 N., R. 10 W., S.M., Secs. 11, E- $\frac{1}{2}$; 12, 13, 14, 22, 23, 24, 25, 26,
27, 34, 35, 36.

T. 12 N., R. 10 W., S.M., Secs. 2, 3, 4, 5, 8, 9, 10.

Nicolaick

T. 11 N., R. 12 W., S.M., Secs. 16, SW- $\frac{1}{4}$; 17, SW- $\frac{1}{2}$; 18, SE- $\frac{1}{4}$;
19, E- $\frac{1}{2}$, E- $\frac{1}{2}$ W- $\frac{1}{2}$; 20; 21, W- $\frac{1}{2}$; 28, W- $\frac{1}{2}$; 29, 30, 31, 32.

(c) The State shall provide a floating, public, 300 foot wide trans-
portation easement from T. 13 N., R. 14 W., S.M. to the shore of Cook
Inlet in T. 11 N., R. 12 W., S.M. Said easement to be determined upon
the ground at such future time as a need exists and there are adequate
field data available upon which the State may finally plan and locate
the corridor.

3. Lands in an amount equal to $\frac{1}{4}$ of the acres to which each of the
villages of Knik, Chickaloon, Alexander Creek, Ninilchik, and
Salamsatof are or would be entitled under ANCSA Sec. 12(a), under
selection applications on file with the BLM as of July 18, 1975, in the
Lake Clark, Lake Kartrashibuna and Mulchatna River areas. Each
acre identified for conveyance by the State hereunder must be located
within or near the 11(a)(1) withdrawal of the village to which the
displaced ANCSA acreage to which that acre corresponds would
otherwise have passed under ANCSA. The lands so identified in re-
spect to displaced acres attributable to Alexander Creek and Salamstof
shall be conveyed by the State if and only if the village to which the
displaced acres are attributable retains its village eligibility status
under ANCSA.

APPENDIX D

LANDS IN THE LAKE ILLAMNA AREA AND IN THE NUSLAGAK RIVER AND LAKE CLARK DRAINAGES

Paragraph III(A)(1)

1. The Secretary shall convey to the State at least 22.8 townships
and no more than 27.0 townships of land from those presently with-
drawn under section 17(d)(2) of the Alaska Native Claims Settle-

ment Act in the Lake Iliamna area and within the Nushagak River or Lake Clark drainages near lands heretofore selected by the State.

II. The following townships shall be conveyed to the State as part of the minimum of 22.8 townships to be conveyed to the State from lands identified in paragraph I.

T 4N, R 36 W, S.M.

T 3N, R 36 W, S.M.

T 2N, R 36 W, S.M.

T 1N, R 36 W, S.M.

T 1S, R 37 and 38 W, S.M.

T 2S, R 37 and 38 W, S.M.

T 3S, R 37 and 38 W, S.M.

T 4S, R 37-39 W, S.M.

T 5S, R 40-42 W, S.M.

T 6S, R 40 W, S.M. (except sections 21-28, 33-36).

T 6S, R 41 and 42 W, S.M.

T 7S, R 42 W, S.M. (secs. 3-10, 15-18).

III. For each acre of valid village 12(a) selections relinquished in the Lake Clark, Lake Kontrash/bana and Mulchatna River areas pursuant to paragraph II of the document to which this forms an Appendix, the Secretary shall convey to the State, on an acre for acre basis, lands from within the 17(d) (2) area described in Paragraph I up to a total of 4.2 townships.

IV. To the extent that lands to be conveyed to the State pursuant to Paragraphs II and III above are not specifically identified in this Appendix, they shall be identified by mutual consent of the State and the Secretary from lands described in Paragraph I within 60 days of the date the State becomes bound to this document, or within 60 days of the date that any entitlement vests in the State pursuant to Paragraph III of this Appendix, whichever shall come first.

V. All lands granted to the State of Alaska pursuant to this Appendix D shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

APPENDIX E

LANDS IN THE TALKEETNA MOUNTAINS, KAMISHAK BAY AND TUENA LAKES AREAS

(Paragraph III(A) (2))

The Secretary shall convey to the State the following described lands, subject to valid village selections under section 12(a), but not 12(b), of ANCSA.

T 22N, R 2W, S.M.

T 23N, R 2W, S.M.

T 24N, R 1 and 2 W, S.M.

T 26N, R 1 and 2 W, S.M.

T 27N, R 2W, S.M.

T 29N, R 2W, S.M.
T 7S, R 26W, S.M. secs. 29-31
T 7S, R 27-29 W, S.M.
T 3S, R 26-29 W, S.M.
T 9S, R 26-30W, S.M.
T 10S, R 28-30 W, S.M.
T 11S, R 28-30 W, S.M.
T 4N, R 33-35 W, S.M.
T 3N, R 34 and 35 W, S.M.
T 2N, R 34 and 35 W, S.M.

APPENDIX F

FAR NORTH BICENTENNIAL PARK

(Paragraph III B)

T 12 N, R 3 W, S.M.:

Section 1.
Section 2.
Section 3 (except SW $\frac{1}{4}$).
Section 10 (except S $\frac{1}{2}$).
Section 11 (except S $\frac{1}{2}$).
Section 12.

T 13 N, R 3 W, S.M.:

Section 34 (except N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$)
Section 35 (except NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$)
Section 36 (except NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$)

APPENDIX G

TALKEETNA MOUNTAINS—KOKSETNA RIVER LANDS

(Paragraph III(c))

The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River areas as described below.

T 4N, R 31 W, S.M. (W $\frac{1}{2}$).
T 4N, R 32 W, S.M.
T 3N, R 31 W, S.M. (W $\frac{1}{2}$).
T 3N, R 32 and 33 W, S.M.
T 2N, R 31-33 W, S.M.

Subject to valid village 12(a) and 12(b) selections under ANCSA, the following lands located south of the Susitna River:

T 29N, R 11E-1 W, S.M.
T 30N, R 11E-2 W, S.M.
T 31N, R 9E-1 W, S.M.

Edwardsen v. Morton

During the Subcommittee hearings H.R. 6644, the Committee was made aware of an issue which may have long-range significance for the Native land claims settlement contained in the Settlement Act.

This issue concerns the decision in the case of *Edwardson v. Morton* (369 F. Supp. 1359), 1973. The Settlement Act had as its principal purpose the provision of a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims." (Section 2(a)). On April 19, 1973, Judge Oliver Gasch, the District Court for the District of Columbia, in ruling on a motion by the defendants for summary judgment in *Edwardson*, held if the Native plaintiffs of the Arctic Slope of Alaska "were in fact disturbed in their use and occupancy by trespassers, i.e., by any parties coming onto the land except for those entering under Congressional authorization, then there accrued a cause of action in tort against the trespassers and a cause of action for trespass and breach of fiduciary duty against Federal officers authorizing such trespass." 369 F. Supp. at 1378-1379. The Court continued, "It is not at all clear that the Settlement Act bars litigation of plaintiffs' claims relating to the alleged trespasses even though they are linked to claims of aboriginal title. * * * In any event, a construction of (the Act's provisions) to bar claims relating to pre-Settlement Act trespasses would appear to create constitutional infirmities in the Act which are better avoided if a constitutionally sound construction does not violate clearly expressed legislative intent." 369 F. Supp. at 1379. Accordingly, Judge Gasch refused to hold "that a later Act of Congress [Settlement Act] could wipe out all claims against any person * * * simply because Congress has decided to extinguish aboriginal title." *Id.*

Pursuant to a stipulation entered into by the parties in August of 1974, and approved by the Court in October, 1974, further proceedings in the *Edwardson* case were held in abeyance pending an investigation by the Department of the Interior of the extent of the trespass claims involved. That investigation has been completed and the United States, acting as trustee for the Natives involved, has filed suit in the United States District Court for the District of Alaska against several corporate and individual defendants, including the State of Alaska, for damages arising from such trespasses.

It is not clear just what impact a final decision upholding the *Edwardson* ruling might have on the Settlement Act and the orderly development of the State of Alaska. As a consequence, the Committee determined not to deal with that critical issue in H.R. 6644. This decision should not be interpreted to mean that the Committee finds the ruling to be either correct or incorrect with respect to the congressional intent in barring or not barring such claims. At this point, that is a judicial matter.

However, the Committee intends to follow the course of this litigation and the impact that it has or may have on the Settlement Act and the development of lands and resources in Alaska. Should circumstances warrant, the Committee then will consider the matter further.

PROVIDING, UNDER OR BY AMENDMENT OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, FOR THE LATE ENROLLMENT OF CERTAIN NATIVES, THE ESTABLISHMENT OF AN ESCROW ACCOUNT FOR THE PROCEEDS OF CERTAIN LANDS, THE TREATMENT OF CERTAIN PAYMENTS AND GRANTS, AND THE CONSOLIDATION OF EXISTING REGIONAL CORPORATIONS, AND FOR OTHER PURPOSES

December 16, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 6644]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 6644) To provide, under or by amendment of the Alaska Native Claims Settlement Act, for the late enrollment of certain Natives, the establishment of an escrow account for the proceeds of certain lands, the treatment of certain payments and grants, and the consolidation of existing regional corporations, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native village", as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group", as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any "Native group", as defined in such Act shall not lose its status as a Native group because of any enrollment pursuant to this Act.

(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as village corporations under section 11 of Alaska Native Claims Settlement Act and which are included within the boundaries of former reserves who elected to receive surface and subsurface entitlement pursuant to subsection 19(b) of the Settlement Act. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b)

or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided*, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12 (b) or 14 (h) (8) of the Settlement Act.

(c) In those instances where, on the roll prepared under section 5 of the Settlement Act, there were enrolled as residents of a place on April 1, 1970, the minimum number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall, in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided*, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native Corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further*, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: *Provided further*, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further*, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such reexamination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.

Sec. 2. (a) From and after the date of enactment of this Act; or January 1, 1976, whichever occurs first, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements, issued pursuant to section 14 (g) of the Settlement Act, pertaining to land or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefit under such Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, right-of-way, or easements, pertaining to lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to such Act, shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as would have been required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit, such deposit to bear simple interest at a rate determined by the Secretary of the Treasury: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (422a): *Provided further*, That this section shall not be construed to terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

(c) Any and all proceeds from public easements received pursuant to subsection 17(b)(3) of the Settlement Act, from or after the date of enactment of this Act, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act.

Sec. 3. The Settlement Act is amended by adding at the end thereof the following new section:

"Sec. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 780), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 681), as amended, through December 31, 1961. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act."

Sec. 4. The Settlement Act is further amended by adding at the end thereof the following new section:

"Sec. 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding section 5(a) and any other provision of the Food Stamp Act of 1961, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act shall be disregarded."

Sec. 5. For purposes of the first section of the Act of February 12, 1920 (45 Stat. 1164), as amended, and the first section of the Act of June 24, 1938 (52 Stat. 1037), the Alaska Native Fund shall, pending distributions under section 6(e) of the Settlement Act, be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

Sec. 6. The Settlement Act is further amended by adding a new section 30 to read as follows:

"Sec. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 11(b)(2), or 14(b)(3) within any of the twelve regions of Alaska, as established by section 7(a), may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 7(d), 8(a), 11(b)(2), or 14(b)(3).

"(b) Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after the enactment of this section: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised by any merger or consolidation pursuant to this Act effected prior to December 19, 1961. Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this Act, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this Act as are applicable to the corporations and shareholders

which part is stated: said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 10(b) of this Act merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; and selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h) (8), and 7(l) of this Act.

"(c) Notwithstanding the provisions of section 7 (j) or (m), in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 7 (j) or (m). In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidations, such class of stockholders shall continue to receive such dividends pursuant to section 7 (j) or (m) as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

"(d) Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merge or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

"(e) The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 14(f) to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village."

Sec. 7. Section 17(a) (10) of the Settlement Act is amended to read as follows:

"(10) The Planning Commission shall submit, in accordance with this paragraph, comprehensive reports to the President of the United States, the Congress, and the Governor and legislature of the State with respect to its planning and other activities under this Act, together with its recommendations for programs or other actions which it determines should be implemented or taken by the United States and the State. An interim, comprehensive report covering the above matter shall be so submitted on or before May 30, 1970. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1970. The Commission shall cease to exist effective June 30, 1970."

Sec. 8. (a) Notwithstanding the October 6, 1975 Order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. v. Rogers C. B. Morton et al., Civil Action No. 2133-73, and Alaska Federation of Natives, International, Inc., et al. v. Rogers C. B. Morton, et al., Civil Action No. 2141-73 (F. Suppl.), changes in enrollment of Alaska Natives which are necessitated or permitted by such Order shall in no way affect land selection entitlements of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

(b) Stock previously issued by any of the twelve Alaska Native Regional Corporations or by Alaska Native Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said Order shall, upon said enrollment, be cancelled by the issuing corporation without liability to it or the Native whose stock is so cancelled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said Order shall elect to re-enroll in the appropriate Alaska Regional Corporation pursuant to the sixth ordering paragraph of that Order, stock of such Native may be cancelled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Alaska Regional Corporation without liability to either corporation or to the Native.

(c) In the event section 5(a) of the Settlement Act is amended to re-open the Alaska Native Roll for additional enrollment, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to such Act shall, at the time of enrollment elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of the Settlement Act and such election shall apply to all dependent members of such Natives' household who are less than eighteen years of age on the date of such election.

(d) No change in the final roll of Alaska Natives established by the Secretary pursuant to Section 5 of the Settlement Act resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Alaska Natives shall affect land entitlements of any regional or village corporation or any Native village or group eligibility.

Sec. 9. Section 16 of the Settlement Act is amended by inserting at the end thereof a new subsection (d) to read as follows:

"(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby rewithdrawn to the same extent and for the same purposes as provided by said subsection (a) for a period of one year from the date of enactment of this subsection, during which period the Village Corporation for the village of Klukwan shall select an area equal to twenty-three thousand forty acres in accordance with the provisions of subsection (b) of this section and such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this Act to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 19(b) of this Act: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 14(h) (8) of this Act: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250), all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the Village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957 (71 Stat. 597) after the date of enactment of this Act and prior to the date of enactment of this subsection."

Sec. 10. Section 16(b) of the Settlement Act is amended by adding at the end thereof the following: "Such allocation as the Regional Corporation for the southeastern Alaska region shall receive under section 14(h) (8) shall be selected and conveyed from lands not selected by such Village Corporations that were withdrawn by subsection (a) of this section, except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas."

Sec. 11. Section 7(a) of the Settlement Act is amended by changing the period at the end thereof to a colon and adding the following: "*Provided*, That the boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided further*, That, with respect to any lands conveyed to it in the vicinity of Icy Bay, the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the village of Yakutat the same rights and privileges to use such lands for purposes traditional thereon, including, but not limited to, subsistence hunting, fishing, and gathering, as it accords to its own shareholders, and shall take no unreasonably or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges."


* — Sec. 12 Cook Inlet Settlement. (a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region, Incorporated ("Region" hereinafter), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

(1) The State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b):

(2) The Region and all plaintiffs/appellants have withdrawn from Cook Inlet v. Kleppe, No. 75-2232, 9th Circuit, and such proceedings have been dismissed with prejudice; and

MOOSE RANGE, SWANSON RIVER

(3) All Native village selections under section 12 of the Alaska Native Claims Settlement Act of the lands within Lake Clark, Lake Koutrashiluna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(1) of the Alaska Statehood Act (72 Stat. 339). 

(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area," which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, the terms of which are hereby ratified as to the duties and obligations of the United States set forth therein:

(1) Approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustumena, or the mineral estate in the water-front zone described in the document referred to in this subsection.

(2) Title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

(3) Federal interests in townships 10 South, Range 9 West, F.M., and township 20 North, Range 9 East, S.M.;

(4) Township 1 South, Range 21 West, S.M.; secs. 3-10, 15-22, 29 and 30; and rights to metalliferous minerals in the following sections in township 1 North, Range 21 West, S.M.: secs. 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 39;

(5) Twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region; unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement;

(6) Lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services; *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(1) of the Alaska Native Claims Settlement Act; *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the Range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the Range with the concurrence of the owner. Section 22(e) of the Alaska Native Claims Settlement Act, concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land without restriction to a native corporation.

No lands outside the exterior boundaries of Cook Inlet Region shall be conveyed to Cook Inlet Region, Inc., unless, in the following circumstances, the consent of other Native Corporations is obtained:

1. Where the township to be nominated is located within an area withdrawn as of December 15, 1975, pursuant to Section 11(a)(1) CRII shall obtain the consent of the Region and Village Corporation affected.

2. Where the township to be nominated is located within an area withdrawn pursuant to Section 11(a)(3) as of December 15, 1975, CRII shall obtain the consent of the Region in which the township is located.

There shall be established a buffer zone outside the withdrawals described in subparagraphs 1 and 2 which zone shall extend one township from any such Section 11(a)(3) withdrawal and one and one-half townships from any Section 11(a)(1). Any nomination of a township within such zone shall be subject to

the consent of the Region, or of the Village Corporation if adjacent to a Section 11(a) (1) withdrawal, provided, however, that the affected Regional Corporation may designate additional lands to be included by substitution in the buffer zone so long as the buffer zone location is no greater than two townships in width and the total acreage of the buffer zone is not enlarged. The affected Region shall designate the enlarged buffer zone, if any, no later than six months following the passage of this act. Any use or development by Cook Inlet Region, Inc., of land conveyed under this paragraph shall give due protection to the existing subsistence uses of such lands by the residents of the area; and no easement across Village Corporation lands to lands conveyed under this paragraph shall be established without the consent of the said Village Corporation or Corporations.

(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a) (1) of this section, shall be considered and treated as conveyances under the Alaska Native Claims Settlement Act unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h) (S) of the Alaska Native Claims Settlement Act. Of such lands, 3.5 townships of subsurface in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h) (S). The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h) (S) of the Alaska Native Claims Settlement Act would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any regional corporation or village corporation, notwithstanding any provisions of the Alaska Native Claims Settlement Act to the contrary.

(d) (1) The Secretary shall convey to the State of Alaska, all right, title and interest of the United States in and to all of the following lands:

(I) At least 22.8 townships and no more than 27.0 townships of land from those presently withdrawn under section 17(d) (2) of the Alaska Native Claims Settlement Act in the Lake Ilamna area and within the Nushagak River or Koksetna River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

(II) Twenty-six townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutun Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act: *Provided*, however, that this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title and interest of the United States in and to all of that tract generally known as the Campbell Tract and more particularly identified in the document referred to in subsection (b) except for one compact unit of land which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974: *Provided*, That if the land is not used for the above purposes it shall revert to the United States. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended, and regulations developed pursuant to that Act: *Provided, however*, that the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173), shall not apply to this conveyance, nor shall the lands conveyed pursuant to this para-

graph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof.

(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act, 124 townships of land to be selected from lands within the Talkeetna Mountains and Kokseena River areas as described in the document referred to in subsection (b).

(c) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act.

(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Alaska Native Claims Settlement Act, except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

(g) The Secretary through the National Park Service, shall provide financial assistance, not to exceed \$25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land-use plan for the West side of Cook Inlet, including an analysis of alternative uses of such lands.

(h) Village corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Alaska Native Claims Settlement Act, notwithstanding any provision of that act to the contrary.

(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.

Sec. 13. Section 21 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), is hereby amended by adding the following subsection at the end thereof:

"(f) Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 7, including the right to receive distributions under subsection 7(j), and stock of any Village Corporation organized pursuant to section 8 shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code."

Sec. 14. (a) The Secretary shall pay, by grant, \$250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act.

(b) The Secretary shall pay, by grant, \$100,000 to each of the following Village Corporations:

- (1) Arctic Village;
- (2) Eilm;
- (3) Gambell;
- (4) Savoonga;
- (5) Tedlin; and
- (6) Venetie.

(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act.

(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of \$1,600,000 in fiscal year 1976.

Sec. 15(a). The Secretary shall convey under sections 12(a)(1) and 14(f) of the Settlement Act to Konig, Incorporated, a Regional Corporation established pursuant to section 7 of said Act, such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public

Land Order 5397 for identification for selection by it located in the following described area:

T 36 S, R 52 W
 T 37 S, R 51 W
 T 37 S, R 52 W
 T 37 S, R 53 W, sec. 1-4, 9-12, 13-16, 21-24, north ½ of 25-28
 T 38 S, R 51 W, sec. 1-5, 9, 10, 12, 13, 18, 24, 25
 T 38 S, R 52 W, sec. 1-35
 T 38 S, R 53 W, sec. 1, 12, 13, 24, 25, 36
 T 39 S, R 51 W, sec. 6, 7, 16-21, 28-33
 T 39 S, R 52 W, sec. 1, 2, 11, 12, 13-16, 21-24
 T 39 S, R 53 W, sec. 26, 33-36
 T 40 S, R 52 W, sec. 6, 7, 8, 9, 16, 17, 18-21, 27-36
 T 40 S, R 53 W, all except sec. 20, 29-33
 T 40 S, R 54 W, all except sec. 35 & 36
 T 41 S, R 52 W, sec. 4, 8-15
 T 41 S, R 54 W, sec. 3
 T 41 S, R 53 W, sec. 1, 2, 11, 12, 13

Notwithstanding the withdrawal of such lands by Public Land Order 5179 as amended, pursuant to section 17(d)(2) of the Settlement Act: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

The United States shall make available to Koniag, its successors and assigns, sand and gravel as is reasonably necessary for the construction of facilities and rights of way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of 30 U.S.C. 601 et seq., and the regulations implementing that statute which are then in effect.

(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(e) of the Settlement Act, shall not be available for selection by Koniag Region, Incorporated.

Sec. 16. Within ninety (90) days after the date of enactment of this Act, the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands:

COPPER RIVER MERIDIAN

Township	Range	Section
9.S.	3.E	23, 26, 34-35.
6.S.	3.E	2-27, 34-36.
1.S.	4.E	5, 6, 8, 9, 16, 17, 20-22, 27-29, 33-35.
9.S.	3.E	3-6, 9-11.
9.S.	3.E	14-16, 21, 22, 27, 28.

The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to Section 12(a) or 12(b) of the Alaska Native Claims Settlement Act (85 Stat. 688) and were withdrawn pursuant to Section 11 of that Act.

The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forests system. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to Section 14(f) of the Alaska Native Claims Settlement Act.

Sec. 17. Section 22(f) of the Alaska Native Claims Settlement Act is amended to provide as follows:

(f) the Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including native selection rights, with the Group Corporations, Village Corporations, Regional Corporations, the Native Corporations, for the Cities of Juneau, Sitka, Kodiak and Kenai, other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(1) of the Alaska Statute Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: Provided, That when the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

Sec. 18. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PURPOSE

The purpose of H.R. 6644, introduced by Mr. Young of Alaska, is to amend and supplement, in certain respects, the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688). Among other things, the bill as introduced, would accomplish the following:

The roll of Alaska Natives would be reopened for one year from date of enactment to enroll those Natives who failed to meet the March 30, 1973, enrollment deadline established by the Secretary of the Interior. No changes in land selection rights pursuant to the Settlement Act would occur as a result of the new enrollment process. (Sec. 1(a)).

The Secretary would be required to redetermine the place of residence of Natives who had enrolled in Native "villages" or "groups", as defined in the Settlement Act for purposes of receiving benefits, which villages or groups have subsequently been found ineligible. Prior distribution of benefits and land entitlements under the Act would not be affected (Sec. 1(c)).

Natives who reside on lands of, but are not members of, village(s) which elected to retain their former reservations under section 19(b) of the Act are given the opportunity to enroll to such village corporations. (Sec. 1(b)).

The Secretary is directed to establish an escrow account in which are to be deposited funds earned on lands withdrawn for Native selection pending issuance of patents thereon. Interest will be earned on such account and it will be paid out as interests appear upon issuance of final patents to the Native corporations. (Sec. 2).

Native corporations would be exempt from the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 until December 31, 1991. (Sec. 3).

Clarification is made that (1) payments and grants to Natives under the Act are not to be deemed as a substitute for any government programs Natives otherwise would be eligible for as citizens and that (2) benefits received by Natives under the Act are not to be counted as income or other resources for purposes of the Food Stamp program. (Sec. 4).

Money, in the Alaska Native Fund, pending distribution, is to be

treated as trust funds of Indian tribes for interest and investment purposes. (Sec. 5).

Mergers of Native village corporations which are too small to be economically viable with other village corporations or with the regional corporation would be permitted under certain conditions. (Sec. 6).

The life of the Joint Federal-State Land Use Planning Commission is extended three years until June 30, 1979. (Sec. 7).

The decision of the village of Klukwan to retain their former reservation under section 19(b) of the Settlement Act rather than share in the benefits of the Act resulted in a severe inequity to some of its members because of a prior valid right to the lands of such reservation. This inequity is corrected by, in effect, vitiating such election and allowing Klukwan to share in the Act's land benefits. (Sec. 9).

The Regional Native Corporation of the southeastern region (Sealaska, Inc.) is given authority to select its land entitlement under section 14(h) (8) of the Act from lands withdrawn for, but not selected by, village corporations of that region. (Sec. 10).

The boundary between the southeastern Native region and the Chugach region is confirmed at the 141st meridian. (Sec. 11).

The severe land selection problem encountered by the Cook Inlet Native region in securing its land entitlement under the Act is resolved by providing for certain conveyance of lands to the regional corporation from the U.S. and the State of Alaska. (Sec. 12).

The value of share of stock in Native corporations and the right to receive dividends therefrom are excluded from the gross estate of a Native shareholder for Internal Revenue Code purposes. (Sec. 13).

Grants of \$250,000 each are authorized for the Native corporations of Juneau, Sitka, Kodiak, and Ketchikan and \$100,000 each for the villages of Arctic Village, Eklip, Gambell, Savoonga, Tatlin, and Venetie for planning, development and other purposes for which these corporations were organized. (Sec. 14).

The Koniag Native regional corporation is conveyed title to approximately 186,000 acres of subsurface estate in lands which lands are proposed for inclusion in the Aniakchak Caldera National Monument. (Sec. 15).

BACKGROUND

On December 18, 1971, the President signed into law the Alaska Native Claims Settlement Act (the Settlement Act), Public Law 92-203, 85 Stat. 688. This legislation extinguished all aboriginal claims to land in Alaska and in return provided the Natives (individually and through 12 Regional Corporations and approximately 220 Village Corporations established under the law's provisions) with a land settlement of approximately 40 million acres and a monetary settlement of nearly a billion dollars (\$462,500,000) from the general fund of the Treasury, and \$500 million from mineral revenues from lands in Alaska conveyed to the State under the Statehood Act after the enactment of the Settlement Act and from the remaining Federal lands, except Naval Petroleum Reserve No. 4).

ORGANIZATION

The Act provided that, within 2 years from the date of enactment, the Secretary of the Interior was to prepare a roll of all Natives who

were born on or before, and who were living on, the date of enactment. Within one year of enactment, the Secretary was required to divide the State of Alaska into 12 geographic regions for purposes of the Settlement Act. The Natives of each region were authorized to establish a Regional Corporation to conduct business for profit under the laws of Alaska, and all 12 Regional Corporations have been organized. The Act also listed 217 villages, the members of which were to establish profit or non-profit Village Corporations. The Secretary was required to review the listed village within 2½ years of enactment, disqualify those that do not meet the Act's criteria, and add those which do meet the criteria but were not listed in the Act. Some 220 Village Corporations have been established.

The Act also revoked existing Native reserves and authorized the Native Village Corporations formed on each reserve to elect to take either title to the reserve lands or the benefits of the Settlement Act. Native groups which were not eligible as villages were also asked to incorporate. Finally, the Natives of four urban centers in which the Native population constitutes a minority (Sitka, Kenai, Juneau, and Kodiak) were also expected to incorporate.

The Corporations are to issue stock to their members, however such stock is inalienable for a period of 20 years.

THE LAND

To permit the Regional and Village Corporations to select 38 million acres, the Act requires the Secretary to withdraw approximately 25 townships around each Native village listed in section 11 and, in case of insufficient lands within that area, withdraw nearby lands equal to three times the deficiency. The Secretary was authorized to withdraw and convey an additional 2 million acres outside the otherwise withdrawn areas for specific purposes: cemetery sites and historic places; not more than 23,040 acres for each Native group which does not qualify as a Native village; not more than 23,040 acres for each of the Native Corporations in four urban centers the populations of which are no longer composed predominantly of Natives (Sitka, Kenai, Juneau, and Kodiak); and not more than 160 acres for each Native living outside the otherwise withdrawn areas.

Of these withdrawn lands, the Village Corporations are to receive title to 22 million acres of surface estate only: 18½ million acres of surface estate in the 25 township areas surrounding each Village, divided among the villages according to population, and 3½ million acres of surface estate, divided among the Village Corporations in 11 regions (excluding the southeastern region, Sealaska) by the Regional Corporations on an equitable basis after considering historic use, subsistence needs, and population. The deadline for selection of lands by the Village Corporations was December 18, 1974.

The 12 Regional Corporations are to receive the subsurface estate in the 22 million acres patented to the Village Corporations, and the full title to 16 million acres selected within the 25 township areas surrounding the villages. This land would be divided among the 12 Regional Corporations on the basis of land areas within each region. The Regional Corporations would also receive the subsurface estate

of land selected by Native groups (one township, 23,040 acres, each), individual Natives residing outside villages (160 acres each), and the Native Corporations for Sitka, Kenai, Juneau, and Kodiak (23,404 acres each). The balance remaining from the two million acres withdrawn for the group, individual, and town selections after selection is made is also to go to the Regional Corporation. Finally, Regional Corporations would be conveyed cemetery and historical sites. The deadline for Regional Corporation land selections is December 18, 1975.

THE FUNDS

The Act established in the Treasury an Alaska Native Fund into which is to be paid \$462,500,000 in Federal funds over an 11-year period and a 2% overriding royalty from all proceeds received from the disposition of minerals subject to the Mineral Leasing Act in Alaska from both Federal (other than Naval Petroleum Reserve No. 4) and State lands until an additional sum of \$500,000,000 is reached.

The Regional Corporations would receive all payments on a quarterly basis as funds are made available on passage of appropriations acts. The payments are divided among the regions on the basis of Native population. The Regional Corporations must also divide among themselves 70 percent of the mineral and timber revenues received by them from lands conveyed to them. Each Regional Corporation must then distribute to the Village Corporations and the class of stockholders who are not residents of these villages not less than 50 percent (45% during the first five years) of the funds granted to it and all timber and mineral revenues from its lands. During the first five years, not less than 10% of all corporate funds from the two above-mentioned sources are to be distributed by the Regional Corporations among their stockholders.

With some minor exceptions, the land and moneys received under the settlement are not taxable at time of receipt.

EXPLANATION

The Alaska Native Claims Settlement Act is a very complicated, far-ranging law. It was the subject of exhaustive congressional hearings, consideration and debate. The final product represents a delicate balancing of the myriad of interests within the State of Alaska and the Nation as a whole.

The primary purpose of the Act was to finally settle the long-standing land claims of the Alaska Natives in a fair, expeditious manner. In addition, however, the Act attempted to secure the interests of the public at large preserving the unique status and value of certain lands in the State, in providing for the orderly development of the resources of Alaska, and in preserving the ecological and environmental balance on this land.

The Act also sought to permit the development of the vast energy potential of the State to aid in meeting the growing energy shortages of the Nation while meeting the needs of the Natives and of the public at large.

In light of the many issues and circumstances which the Act attempted to meet and equitably resolve, it is little wonder that

experience in the implementation of the Act has disclosed some deficiencies and oversights on the legislation. This is particularly true with respect to insuring that the Native beneficiaries of the Act obtained the rigats to which they were entitled.

The Committee, in the exercise of its oversight responsibilities and in extensive hearings on the Settlement Act has identified several pressing deficiencies in the Act and resultant inequities which require legislative remedy. H.R. 6644, as amended, will provide that remedy.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Subsection (a) of the bill authorizes the Secretary of the Interior to review all applications filed within one year after the date of enactment of the bill by persons who missed the March 30, 1973 deadline for filing applications for enrollment as Alaska Natives. The Secretary would then enroll those Alaska Natives who meet the qualifications for enrollment set out in the Alaska Native Claims Settlement Act except for their failure to meet the March 30, 1973 deadline.

In addition, section 1(a) sets forth the procedures for making all the changes required by amendments to the roll resulting from the new enrollments thereunder, specifically with regard to issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Also, the subsection provides that no land entitlements of "village" or "group" eligibility will be affected by the changes in enrollment thereunder.

Some 77,000 Alaska Natives filed timely enrollment applications and were included on the final roll certified by the Secretary of the Interior on December 18, 1973. However, approximately 800 applicants filed after the March 30, 1973 deadline. Their applications were summarily denied. In addition, numerous other Natives were dissuaded from filing upon learning that the deadline had passed. Further, because of the remoteness and isolation of Native settlements in Alaska, the subsistence hunting and fishing culture of many Natives, and the wide dispersion of other Natives throughout the United States and foreign countries, many Natives did not receive timely notice about the enrollment process.

This new enrollment period will afford these Natives the opportunity to share in the benefits Congress intended for them. While there is no accurate count of eligible Natives who missed enrollment, estimates indicate that the number would be greater than 1,000.

Subsection 1(b) provides that the Secretary is authorized to poll Natives enrolled to villages or groups not recognized as village corporations under the Settlement Act and which are located within the boundaries of former reserves where village corporations elected surface and subsurface rights under section 19(b) of the Settlement Act. The Secretary may allow these natives to enroll to a section 19(b) village corporation or to remain enrolled on an at-large basis in the Regional Corporation of the region in which the village or group is located.

Although the language of the provisions is general and would apply to any case falling within its terms, the provision is specifically

directed toward an inequitable situation identified by the Committee on the Island of St. Lawrence. The villages of Gambell and Savoonga elected to retain and take title to their former reservation pursuant to section 19 of the Settlement Act. That former reservation constituted the entire Island.

Approximately 30 Natives who live on the Island enrolled to places other than Gambell or Savoonga. Since all the land was taken by the two villages as the former reserve, these Natives cannot realistically obtain land benefits as a Native group. The subsection will correct this and other such inequitable and unintended results of the Settlement Act.

The Committee adopted an amendment which makes clear that no enrollment changes resulting from subsection (c) will affect any land entitlements under section 2(b) or 14 (h) (8) of the Settlement Act. The Committee does not intend that the addition of the proviso be taken to be a congressional determination that any such enrollment change might or might not otherwise affect such entitlements.

Section 1(c) provides that, in those cases where, under the enrollment provisions of the Settlement Act, there were enrolled as residents of a place the minimum number of Natives necessary to qualify as a Native village or group and where it is later determined by the Secretary that such place is not eligible for land benefits as a village or group on grounds which include an insufficient number of residents, the Secretary is required to redetermine the place of residence of such Native as of April 1, 1970, and to enroll such Native in the appropriate Native corporation or corporations.

The subsection maintains existing or past distributions of funds or land entitlements under the Settlement Act notwithstanding such redetermination of residence. In addition, it affords an opportunity for notice and a hearing for those Natives whose residence is being redetermined and for those Native corporations gaining or losing stockholders.

SECTION 2

Section 2 contains provisions to correct ambiguities which have arisen during the implementation of the Settlement Act concerning the distribution of certain receipts and proceeds.

Subsection (a) provides the Secretary of the Interior with authority to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to land or resources of land withdrawn for Native selection pursuant to the Settlement Act in an escrow account until such time as disposition is made of the land and then to transfer the receipts to the person or entity receiving title to the land. Upon the expiration of the selection rights of the Natives for whose benefit such lands were withdrawn or reserved, the proceeds from lands withdrawn but not selected are to be paid out as required under law. Subsection 2(b) provides the authority needed to pay interest on the funds held in the escrow account and to allow the Secretary of the Interior to reinvest them to obtain a higher return pursuant to the Act of June 24, 1938 (52 Stat. 1037, 25 U.S.C. 162(a)).

Despite the stricture provided in section 14(a) of the Settlement Act that patents to lands selected by Native corporations are to be conveyed "immediately after selection," delays between the selection of land by a Native corporation and the transfer of title to that corporation are unfortunately likely to occur. Several reasons for such delays, such as the absence of an easement policy, probably will be eliminated in the near future. Others are likely to continue for the duration of the Native land selection process, in that the Bureau of Land Management appears to lack the manpower and money necessary to process expeditiously the hundreds of selection applications which it has or will soon receive from the twelve Regional Corporations and the approximately 220 Village Corporations which have qualified for benefits under the Settlement Act.

Under existing law, any funds derived from lands owned by the Federal government must be deposited in the Treasury or other appropriate depository until title passes, despite the fact that such lands may have been selected by a Native corporation. Therefore, in the absence of section 2 of H.R. 6644, no authority exists to establish an escrow fund on behalf of the Native corporations. Accordingly, these corporations could be deprived of a significant asset which they would be entitled to receive but for the existence of problems beyond their control—delays in conveying the selected land and lack of authority to protect Native proceeds in the interim. The Settlement Act vests the Secretary of the Interior with interim authority to grant leases, contracts, permits, rights-of-way, and easements on Native lands. In a growing number of situations, Native corporations have wanted the Secretary to enter into one of these arrangements, but have been forced to abandon their plans due to the lack of escrow authority.

Subsection (c) relates to public easements reserved in any conveyance pursuant to section 17(b)(3) of the Settlement Act. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation would have been made in the conveyance, section 2 would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued will be paid to the grantee of such conveyance in accordance with the grantee's proportionate share. The Department of the Interior believes it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation without the certainty provided by section 2.

Subsection (d) provides that, where there is a conflict between the provisions of this section and other Federal law applicable to Alaska, this section will prevail. In addition, it provides that payments made to any corporation or individual from the escrow account shall not be considered revenue for purposes of the mineral revenue sharing section 9(d) and (f) of the Settlement Act.

SECTION 3

Section 3 adds a new section 28 to the Settlement Act which exempts Native corporations organized under that Act from the provisions of certain federal securities laws during the time that the stock of those

corporations is subject to prohibitions on sale or disposition, i.e. December 31, 1991.

A. The Investment Company Act of 1940

The exemption is necessary because of certain "mechanical" provisions of the Investment Company Act and the present uncertain status under the 1940 Act of Native corporations established pursuant to the Settlement Act. The 1940 Act requires highly technical registration and periodic reports to the Securities Exchange Commission (SEC) from corporations which are by design "investment companies" as well as corporations which are deemed "inadvertent" investment companies because more than 40 percent of their total assets, exclusive of cash and government securities, are held in the form of "investment securities."

The Native corporations are designed to be operating profitmaking business corporations. They are not expected to be "investment companies" as that term is customarily used. All of them will eventually own surface and/or subsurface interests in substantial amounts of land. Once the corporations are fully organized it is apparent that many of them will never be "investment companies" by virtue of their intentional business decisions or because they happen to have more than 40 percent of their non-cash assets in investment securities. The probable value of certain land interests makes it unlikely that several of these corporations will ultimately fall under the 1940 Act because of the 40 percent test.

The structure of the Settlement Act results, however, in substantial cash flowing to these corporations years ahead of conveyance and evaluation of land selections. Over \$150 million has been distributed to Native corporations; whereas land selections have not yet resulted in title passing to the corporations, selections will not be completed until the end of 1975, at the earliest, and conveyances will not be completed for perhaps 15 years.

The Native corporations must do something with the money they are receiving. They cannot let it lie fallow in checking accounts, yet they are unprepared now to proceed immediately into profit-oriented business for themselves. To meet this problem corporations are to some extent planning to put money into commercial bank time deposits or certificates of deposit with interest returns somewhat higher than savings accounts, but lower than "high-risk" investment ventures.

These plans present another potential problem under the 1940 Act. While the Court of Appeals for the Second Circuit has held that "certificates of deposit" are not "investment securities" for 1940 Act purposes, the SEC staff informally takes a contrary position. Thus the Native corporations which prudently try to obtain moderate return by purchasing certificates of deposit may be required to undergo costly and time-consuming registrations under the 1940 Act only to find that three years from now when land selections are complete they are no longer subject to that Act and must then go through costly and time-consuming procedures to deregister. The end result is extensive paperwork and a needless waste of time, money, and manpower.

It is too early for these fledgling corporations to know even what their investment policies and legal and accounting problems may be to

make registration practicable for them under the Investment Company Act. On the other hand, the penalty for failure to register under that Act, even for a company which inadvertently becomes subject to its provisions, are severe. It is the purpose of Section 3 of H.R. 6644, amended, to provide the corporations formed under the Settlement Act with turnaround time in order to identify any problems which they may ultimately have under the Investment Company Act and to work out appropriate solutions for such problems internally and in consultation with the staff of the Securities and Exchange Commission.

The SEC has promulgated a temporary rule exempting Native corporations which register as investment companies from most of the provisions of the 1940 Act. Nonetheless, the exemption provided for in this section is necessary. The Committee is informed that some Regional Corporations have not registered under the SEC temporary rule and there exists some risk that their corporate acts and contracts might be vulnerable to challenge under the 1940 Act. The exemption will provide necessary breathing room to the SEC and the Native corporations in order to permit resolution of long-range solutions.

Another reason for temporarily exempting these entities from the Investment Company Act is to enable them to merge under provisions of Section 6 of H.R. 6644. In 1975 the NANA Corporation and the eleven Village Corporations in that region agreed on a plan of merger. The Natives spent about \$200,000 in preparation and filing of a prospectus under the Securities Act of 1933. They did so in reliance on a "no-action" letter from the SEC advising them that no application would be necessary under section 17 of the Investment Company Act, a section which prohibits transactions between "affiliated persons" without a prior order from the SEC that the terms of the transaction are fair and equitable. At the last moment, however, the SEC withdrew their no-action letter, insisted on a section 17 application, and advised that no action would be taken on the application until extensive public hearings had been held. This administrative procedure imposes such substantial costs that merger may be impracticable. Since the very purpose of the merger authority in section 6 is to reduce administrative expense and overhead, it is appropriate at the same time to eliminate unnecessary expenses and delays imposed by federal securities laws.

B. The Securities Act of 1933 and the Securities Exchange Act of 1934

During the 20 year period when Native stock cannot be sold or transferred it is not necessary to subject these corporations to the expense and administrative burdens of compliance with the 1933 Securities Act and the 1934 Securities Exchange Act. Until December 1991, there will be no "market" in the stock of Native corporations since the stock is inalienable. Therefore it does not seem necessary to subject these corporations to the requirements of registering stock under the 1933 Act. The SEC has itself recognized that the 1933 Act need not be applied to those corporations in certain cases when it issued a "no-action" letter regarding the issuance of the initial shares of stock to Natives enrolled in Regional and Village Corporations.

The exemption from the 1933 Act is also needed to effectuate the merger authority in section 6. The 1933 Act requires that the stock be registered with the SEC, and a prospectus prepared and mailed

to all stockholders to whom the stock is offered, prior to the time at which they make the decision on the merger. Stock registration under the 1933 Act is an extremely elaborate and technical proceeding. The resulting prospectus, to be mailed to the stockholders, is intended to disclose every last detail bearing on the question of whether the person should acquire the stock. In the merger which NANA and the Village Corporations attempted to undertake in the spring of 1975, the prospectus, which had not yet been cleared by the SEC but which resulted from the SEC's initial round of comments on an earlier version submitted, consisted of a total of 80 printed pages, including 50 pages of financial statements, and accompanying footnotes, on all the corporations involved. In view of the lack of sophistication of most of the stockholders, particularly on matters such as complex mergers, such a document clearly is not an appropriate method of informing the stockholders. Yet, such a document would be required. It is extremely costly to prepare, and, as noted in the case of the NANA merger, costs well over \$100,000. Clearly such costs for practical purposes would preclude the possibility of merger between two small Village Corporations which might be most in need of it.

Conversely, the tight restrictions of the 1933 Act on the verbal communications which may be made in conjunction with the prospectus virtually preclude any meaningful or simplified discussion at village or community meetings in order to explain merger to the stockholders. Thus the 1933 Act requires for disclosure an extremely complex and expensive document which does not serve its intended purpose at least as to Native corporations, but also precludes the one effective means of communication.

Similarly, application of the 1934 Securities Exchange Act is not necessary during the period when Native stock is inalienable. The 1934 Act applies to corporations with over 500 stockholders and \$1,000,000 in assets. An exemption of Settlement Act corporations from only the 1940 Investment Company Act would result in all the Regional Corporations and approximately 19 of the Village Corporations being subject to the 1934 Act which requires expensive initial registration with the SEC, the filing of periodic reports with the SEC, and makes the detailed proxy rules applicable to any vote of stockholders. For the reasons discussed above under the 1940 Act, these requirements again have little proper application to Native corporations and do not fulfill their intended purpose in this context. In fact, in a recent letter to Congressman Lloyd Meeds in connection with the question of exempting the corporations from the 1940 Act, the SEC characterized the 1934 Act as "a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies." Since the stock of Native corporations may not be traded and the "public" may not invest in it until 1991, the 1934 Act has no proper application to these corporations.

Although the SEC has stated that the 1934 Act is designed to inform the "investing public" about securities, the federal securities laws do provide useful information to the stockholders as well as the investing public. Accordingly the new section 78 of the Settlement Act provides that any Native corporation which, but for the provisions of that section, would be subject to the 1934 Act, must transmit an annual

report to its stockholders containing substantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

**THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA
NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY
FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE
BENEFITS**

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

payments made under the Alaska Native Claims Settlement Act (P.L. 92-203) should be *disregarded* in determining eligibility for the Food Stamp Program and the extent of the food stamp benefit received by participating households. In addition, it asked for a decision from the USDA as to whether these payments should or should not be disregarded under the Federal regulations and instructions governing the counting of income and resources in the Food Stamp Program.

Alaska based its interpretation on numerous grounds—most notably, the provisions of section 2(c) of the Alaska Native Claims Settlement Act.¹ Section 2(e) of the Act states, in part—

“... no provision of this Act shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska;...”

However, on April 22, 1974, the Washington headquarters of the Food Stamp Program notified its San Francisco regional office that payments to individuals and households under the Alaska Native Claims Settlement Act were *not to be disregarded* as income for purposes of the Food Stamp Program—although stock (in the various native corporations established under the Act) and land granted under the Act were to be disregarded as resources (assets) available to individuals and households applying for food stamps.² This notification was transmitted to Alaska—where payments under the Act were beginning—on April 23, 1974.

From discussions with Food Stamp Program personnel in San Francisco and Washington, D.C., it appears that the basic rationale behind the USDA's decision not to disregard these payments as income was that—

Since the Alaska Native Claims Settlement Act contains no specific language requiring that these payments be disregarded in determining food stamp benefits,

And since it is the general policy under the Food Stamp Program to count all income available for food expenditures unless legislation directs a disregard, and

Income from payments under the Alaska Native Claims Settlement Act should be counted for food stamp purposes and to disregard them would grant Alaskan natives a privilege not granted to others applying for the Food Stamp Program.³

¹ This description of the rationale behind Alaska's claim that these payments should be disregarded for food stamp purposes is based on information gained through discussions with the Food Stamp Program's San Francisco regional office. For a complete picture of the State's rationale, it would be advisable to obtain a copy of Alaska's letter to the USDA. The letter originated with Alaska's welfare commissioner.

² The actual text of the notification was—“For FSP [Food Stamp Program] purposes, cash payments made under P.L. 92-203 must be treated as income in accordance with the provisions of the program regulations. Stock and land received under P.L. 92-203 shall be excluded from resources as being unavailable to the household [applying for or participating in the Food Stamp Program].”

³ As noted, this description of the reasoning behind the USDA's decision was gained through discussions with Food Stamp Program personnel—both in Washington and the San Francisco regional office. As yet, it has not been possible to obtain any written description of the USDA's rationale.

In addition, two points of "legislative history" were mentioned in discussing the reasoning backing up the USDA's decision. First, it was noted that the Senate version of the Alaska Native Claims Settlement Act (and the report accompanying it) contained language that might be construed to call for the disregarding of payments under the Act for Food Stamp Program purposes. However, this language did not find its way into the final Act, or the conference report. Second, provisions of a later act, P.L. 93-134, called for the disregarding of payments under court settlements of certain Indian claims in determining benefits under the Social Security Act.⁴ However, this was *not* done in the case of payments under the Alaska Native Claims Settlement Act, for either Social Security Act programs or the Food Stamp Program.

Cash Welfare Benefits

In March 1974, HEW was notified of the questions existing as to whether to disregard payments under the Alaska Native Claims Settlement Act in determining eligibility for and the amount of cash welfare benefits under the Aid to Families with Dependent Children (AFDC) Program and the Supplemental Security Income (SSI) Program.

On May 3, 1974, Mr. Carlucci, Under Secretary of HEW, announced in Seattle that it had been decided that tax-exempt payments under the Alaska Native Claims Settlement Act *would be disregarded* in determining eligibility and benefits under the AFDC and SSI Programs (authorized by title IV-A and XVI of the Social Security Act). A later program instruction issued on July 3, 1974 (copy attached) confirmed this announcement for the AFDC Program, and SSI Program rules were also changed accordingly.

From discussions with Washington, D.C., personnel of HEW's Social and Rehabilitation Service and the content of the July 3, 1974 program instruction, it appears that HEW's basic rationale in deciding to disregard payments under the Alaska Native Claims Settlement Act in determining AFDC and SSI cash welfare benefits was that—

The Alaska Native Claims Settlement Act, specifically section 2(c)⁵ of the Act, required that the payments be disregarded to the extent they are tax-exempt.⁶

⁷ In addition it was pointed out in discussions that the provisions of P.L. 93-134 (requiring the disregarding of certain other Indian claims payments) could be construed to indicate a general Congressional intent that payments of Indian claims be disregarded in determining benefits under the Social Security Act programs administered by HEW (i.e., AFDC and SSI).

⁴ P.L. 93-134 did not require that these payments be disregarded for Food Stamp Program purposes.

⁵ The relevant portion of section 2(c) of the Act is quoted at the beginning of this report.

⁶ As noted, the only available written description of the rationale behind HEW's decision is the July 3, 1974 program instruction. As yet, it has not been possible to obtain any other written description of HEW's reasoning.

This inconsistency in Federal policy remained undisturbed until June 23, 1975. On that date, the United States Court of Appeals for the Ninth Circuit rendered a decision in *Hamilton v. Butz* (No. 75-1268) reversing the District Court's order denying a preliminary injunction to prohibit the Secretary of Agriculture and other public officials from considering funds paid to Natives under the Settlement Act as "resources" available to Native households in determining whether such households are eligible for assistance under the Food Stamp Act. The Court of Appeals ordered the District Court to permanently enjoin the Secretary from so designating Settlement Act payments as "resources" and to prescribe "such other relief as may be necessary to restore the eligibility for food stamps to those Native households that have been denied food stamps because of the Secretary's decision that settlement payments are 'resources' and to compensate Native households that may have been overcharged for food stamps because of the Secretary's actions".

The Committee concurs fully in this decision and subsection (b) of section 4, in requiring restoration of Native eligibility for food stamps, provides assurance that the decision will stand.

SECTION 5

Section 5 corrects an anomalous situation regarding the Alaska Native Fund which has arisen as a result of rulings by the Comptroller General. Appropriations of federal funds under the Settlement Act are credited to the Alaska Native Fund upon enactment of the appropriation measure. Under section 6(c) of the Settlement Act the appropriated funds are not paid to the Native corporations until the end of the fiscal quarter. Thus the funds appropriated in settlement of the Natives' claims may remain in the Treasury for as long as three months before actual payment to the Natives.

Since 1929, federal law has provided that all funds with balances over \$500.00 carried on the books of the Treasury to the credit of Indian tribes would bear interest at the rate of 4% per annum (Act of February 12, 1929; 45 Stat. 1164, as amended; 25 U.S.C. § 161a). Since 1938, federal law has permitted the Secretary of the Interior to withdraw such tribal funds from the Treasury for alternative investment (Act of June 24, 1938; 52 Stat. 1037; 25 U.S.C. § 162a). On October 31, 1972, the Comptroller General ruled that the provisions of these two laws were applicable to the Alaska Native Fund "pending enrollment" under the Settlement Act, 52 Comp. Gen. 248 (B-108439). On December 28, 1973, the Comptroller General ruled that as of December 31, 1973, after enrollment had been completed, the Alaska Native Fund would no longer bear interest or be eligible for investment by the Secretary of the Interior. The effect of this latter ruling is that funds appropriated under the Settlement Act for payment to the Natives may remain idle for up to three months without payment of *any* interest to the Natives. The United States in effect can use those funds during that period to offset other obligations as a form of interest-free loan.

According to a 1971 report of the Treasury Department, there were approximately 450 trust accounts maintained by the government to the