251 HJ HB 784

credit of American Indian groups.[1] All of those funds, with the exception of one with a balance under $500.00, earned interest under federal law. The Committee believes that the Alaska Native Fund should be treated like every other Indian tribal fund. It appears that the Alaska Native Fund is the *only* Indian tribal fund which does not earn interest and is not available for investment by Interior. The Committee believes that the appropriations into the Alaska Native Fund are, in substance, the property of the Natives from the date of enactment of the appropriations bill. The requirement of subsection 6(c) of the Settlement Act that funds be distributed at the end of the fiscal quarter was intended to avoid administrative inconvenience, not to permit the United States to use the Natives' funds during the interim. The provisions of section 5 of this bill would reverse the Comptroller General's decision of December 28, 1973, and restore the Alaska Native Fund to the status it held under his October 31, 1972, ruling and the status held by all other Indian tribal funds. Section 5 applies the provisions of 25 U.S.C. §§ 161a, 162a to the Alaska Native Fund as long as there are funds on deposit in that fund and regardless of the completion of the enrollment process.

The Committee adopted an amendment to this provision which make clear its intent that nothing in the amendment shall be taken to create or terminate any trust relationship between the United States and Alaska Native individual or corporation.

SECTION 6

Section 6 would amend the Settlement Act by adding a new section 30 to permit mergers or consolidations among Native corporations within the same region. This section is required to permit such mergers because sections 7(h) and 8(c) of the Settlement Act prohibit for a period of twenty years from the date of enactment of that Act the sale or other alienation of corporation shares isued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation.

Many of the 220 Village Corporations appear to lack the financial wherewithal and trained manpower which they must possess to become economically viable entities. Village Corporation income will be derived primarily from two sources: distributions from the appropriate Regional Corporation and money derived from the development of the surface estate. Since many Village Corporations have relatively few shareholders, their monetary allocations from the region may be quite small. Moreover, Village Corporations which do not have lands with recreational, timber, or other surface potential will derive little income from this ownership. Finally, many Village Corporations in the remote areas of Alaska do not now possess a trained leadership group, and it is unlikely that they will be able to develop one or to hire needed personnel in the foreseeable future.

For these reasons, it is likely that many Village Corporations will fail if merger authority is not provided. Such a result would frustrate

[1] Receipt, Appropriation and other Fund Account Symbols and Titles, as of Jan. 11, 1971, Dept. of the Treasury, Fiscal Services, Bureau of Accounts, Dir. of Govt. Fin. Oper., Accts. 14X7000–14X7468, pp. 111–140.

the purposes of the Settlement Act, because Native shareholders would be denied the opportunity to participate in the benefits which the Act was intended to provide. Monetary income would be lost, and Native corporations could lose the use and control of their land. Moreover, the lack of sufficient cash flow to a failing corporation might require the hasty and undesired development of those natural resources which the corporation does possess. Such development could jeopardize Native culture, the preservation of which is a central objective of many Native groups. The failure of Native corporations would also have an adverse impact on the general economy of Alaska, for the State and its constituent regional and local areas have much to gain from the existence of financially viable Native entities.

Subsection (a) of the new Section 30 would authorize mergers or consolidations among Native corporations of the same region. It would also allow the subsequent merger or consolidation of merged or consolidated corporatins with each other so long as they also are in the same region. The Native corporations affected by this provision are Regional Corporations established pursuant to section 7(d) of the Settlement Act, Village Corporations established pursuant to section 8(a), corporations for Native groups established pursuant to section 14(h)(2), and corporations established for the four urban centers (Sitka, Kenai, Juneau, and Kodiak) pursuant to section 14(h)(3).

Subsections (b) through (d) of the new section 30 set forth the procedures and conditions for such mergers or consolidations.

Subsection (b). Under subsection (b), all mergers or consolidations would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations, and to such terms and conditions as are approved by the shareholders of the corporations involved. The mergers authorized by corporation shareholders either before or after passage of H.R. 6644 would be covered and could take place under the provisions of the Bill. Thus, subsection (b) would allow a merger to be completed upon enactment of H.R. 6644 which was approved by corporation stockholders with the merger vote contingent upon subsequent enactment of legislation. This provision is necessary because of ongoing efforts to merger Village Corporations, particularly in the NANA Region of Alaska.

Subsection (b) gives to the merger corporation, upon the effectiveness of the merger, all rights and benefits that the Settlement Act confers upon the individual corporations and also makes it subject to all the restrictions and obligations that were made applicable to the individual corporations by the Settlement Act. The provision specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Settlement Act.

Subsection (b) specifically provides for the issuance of stock in the newly merged or consolidated corporations. In particular, it authorizes the issuance of additional shares of Regional Corporation stock in instances where other Native corporations merge or consolidate with the Regional Corporation. This authorization is required because of the Settlement Act's section 7(g) requirement that Regional Corporations issue 100 shares of stock to each Native enrolled in their respective regions. Subsection (b) also states that "the rights accorded under

Alaska law to dissenting stockholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act prior to December 19, 1991". The purpose of this provision is to eliminate any ambiguity as to the continued effectiveness of the Settlement Act's section 7(h)(1) prohibition against alienation of Native corporation stock for a period of twenty years.

The Committee adopted an amendment to subsection (b) which provides that if a village corporation which elected to retain its former reservation under section 19 of the Settlement Act merges or consolidates with another Native corporation within such region, nothing in such merger or consolidation shall affect any land entitlements, fund distributions, or revenue sharing rights under the Settlement Act. As in the case of section 1(b) of the bill, some question exists as to whether or not members of the so-called "19(b) Village Corporations" are to be counted as regional enrollees. The amendment adopted is merely to preserve the named entitlements or rights in any case and is not meant to be a congressional determination of that issue.

Subsection (c) concerns the rights of enrolled Natives who are shareholders of a Regional Corporation but are not residents of any of the villages in that region. Section 7(m) of the Settlement Act gives those Natives a right to receive dividents paid to Village Corporations under section 7(j) of that Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of H.R. 6611 or any other law, no merger or consolidation of Native corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Subsection (e).—Section 14(f) of the Settlement Act provides that the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village are to be subject to the consent of the Village Corporation. This provision provides protection to villages from a precipitate decision by Regional Corporations to develop the subsurface estate. This provision seeks to avoid potential conflicts between villages which are holders of the surface estate and which may be made concerned with preserving the use of the land in accordance with traditional local life-styles and subsistence economy and Regional Corporations which are holders of the subsurface estate and which may have as their focus the generation of revenues from the land. Without specific provisions to the contrary, once a Village Corporation merges or consolidates with other corporations under this new section 30, it would lose this authority over its immediate land base. Therefore to preserve this authority, subsection (e) has been included. Subsection (e) requires that any plan of merger or consolidation must provide that the 14(f) right of any

affected Village Corporation is to be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of that village.

SECTION 7

Section 7 extends the life of the Joint Federal-State Land Use Planning Commission for three years from December 31, 1976 to June 30, 1979.

The Joint Federal-State Land Use Planning Commission for Alaska was established pursuant to section 17(a) of the Settlement Act. The principal responsibilities of the Commission were set forth in section 17(a)(7) and 17(b) of the Settlement Act. That the Commission has met its responsibilities in an effective and even-handed manner is best demonstrated by the support for the extension of its term beyond the December 31, 1976, termination date. This support, as demonstrated in hearing testimony and communications with the Committee, comes from the Secretary of the Interior, the Governor of Alaska, the entire Alaska Congressional delegation, the Alaska Federation of Natives and various Regional Corporations, and environmental groups.

SECTION 8

Section 8 of H.R. 6644, as introduced, provided for the establishment of a 13th Region and the incorporation of a 13th Regional Corporation for the benefit of enrolled Natives who were not permanent residents of the State of Alaska.

Section 5(c) of the Settlement Act provided that such "non-resident" Natives (eighteen years of age or older) would elect, when they filed their application for enrollment, whether they wish to enroll in a 13th Region or in one of the twelve Alaska regions. If a majority of such non-residents voted for a 13th Region, the Secretary was required to establish such region and authorize the creation of a 13th regional corporation for their benefit to administer distribution of funds from the Alaska Native Fund. Those who voted against the 13th would be enrolled to the appropriate Alaska region.

In the event less than a majority voted for the 13th, the issue filed and all non-residents were enrolled to their appropriate region in Alaska.

When the Secretary of the Interior certified the final Native roll on December 18, 1973, he also declared that less than a majority of the non-resident Natives voted for the 13th and the 13th region issue had failed. All non-residents were, accordingly, enrolled in the appropriate Alaska region.

Two organizations (Alaska Federation of Natives International, Inc. and the Alaska Native Association of Oregon) representing the interests of non-residents and the concept of the 13th region, separately, brought suit against the Secretary in the United States District Court for the District of Columbia. Requesting that the declaration of the Secretary be declared invalid and that the 13th region be established, the Plaintiffs alleged, inter alia, that:

(1) certain departmental officials involved in the enrollment process had evidenced a bias against the 13th region;

(2) the Secretary had failed to recognize amendments by

non-residents to their original enrollment application changing their vote from "no" to "yes";

(3) the Secretary had improperly counted non-residents who had abstained as "no" votes; and

(4) there was a general denial of due process in the secretarial enrollment-election process.

Legislation was introduced in the 93rd Congress which would have established the 13th Region, notwithstanding the determination of the Secretary, but which failed of enactment. H.R. 6644, as introduced, contained similar language.

On October 6, 1975, the District Court entered a final order implementing an earlier order in 1974, directing the Secretary to create the 13th Region, enroll therein all non-resident Natives who had indicated, on his last formal communication with the Secretary, his desire to enroll in a 13th region, and to provide for the incorporation of the 13th regional corporation. As the Committee considered the bill, the implementation of that order by the Secretary was well underway.

As a consequence, the Committee struck all of section 8 of the bill as being made moot by the Court's order. However, it added back language as section 8 which it deemed necessary to supplement the Court's order. The amendment provides that no change in enrollment to either the 13th region or to one of the twelve Alaska regions which is required or permitted by the Court's order shall affect any land entitlements of an Alaska Native corporation existing at the time of the creation of the 13th region. Also, it provides that, in furtherance of the Court's order, any cancellation of stock of a Native shall be without liability to either the corporation or the individual. Finally, it provides that in the event the Native roll is re-opened for new enrollment, eligible Natives who are permenant non-residents of Alaska shall elect whether they wish to enroll in the 13th Region or the appropriate Alaska region at the time of their enrollment.

In addition, the Committee adopted an amendement which preserves land entitlements notwithstanding administrative changes in the Alaska Native roll. Under section 14 of the Settlement Act, land entitlements of villages corporations are established on a scale based upon population. Proposed Interior Department regulations setting up a procedure for challenging enrollments of individual Natives has raised the possibility that a village having a minimum number of shareholders for its existing entitlement could lose an entire township if only one of its shareholders is successfully challenged and disenrolled. While the Committee, by this amendment, has not determined whether the Secretary has or has not the authority to make such administrative changes in the roll, this amendment would preserve existing land entitlements notwithstanding any such changes in the roll.

SECTION 9

Section 9 amends section 16 of the Settlement Act by adding a new subsection (d).

Under section 19 of the Settlement Act, former reservations in Alaska established by Executive or Secretarial order or by Act of Congress, with the exception of the Annette Island Reserve, were abol-

ished. Native villages within such reserves had the option of retaining the lands, surface and subsurface, set aside as a reservation or of participating in land entitlements under the Settlement Act, in which case they received no subsurface rights. These rights are reserved for the regional corporations.

A reservation was set aside by the Act of September 2, 1957 for the Chilkat Indian Village which was organized pursuant to the provisions of the Indian Reorganization Act, as amended. The land was near the village of Klukwan and was an enlargement of an Executive order reservation. The same Act permitted the IRA corporation to lease the minerals underlying the lands for its benefit. This was done.

The Natives of the Klukwan village area voted to retain the former reserve. However, section 19 made such lands, in the hands of the Native corporations, subject to valid existing rights. One such right was the existing iron ore mineral lease by the IRA corporation which remained separate from the ANCSA corporation.

While all of the members of the IRA corporation are also members of the ANCSA corporation, the reverse is not true. Since the IRA corporation has a vested right to the subsurface of lands and very likely to the surface also, the net effect is that the ANCSA corporation and its shareholders have no real assets whatsoever.

The new subsection (d) of section 16 would, in effect, vitiate the election of Klukwan, Inc. to retain their former reserve. Lands which were withdrawn for them for selection prior to that election are to be rewithdrawn for a period of one year after the date of enactment of this section and Klukwan, Inc. is to select an area equal to 23,040 acres in accordance with the Act. The corporation and its shareholders will share fully in the benefits of the Act as if there had been no election under 19(b).

The foregoing provision will not become effective until Klukwan, Inc. quitclaims to Chilkat, Inc. any interest it may have in the former reserve lands which are quieted in Chilkat, Inc., in fee simple.

The Committee adopted an amendment to section 9 which provides that the United States and Klukwan, Inc., must also quitclaim any interest they may have in certain funds earned on the lease of the mineral resources of the former reserve since enactment of the Settlement Act to Chilkat, Inc.

In addition, the Committee adopted another amendment which provides that nothing in the new subsection shall affect existing land entitlements in 14(h)(8) of the Settlement Act.

SECTION 10

The Native region created by the Settlement Act for southeastern Alaska was precluded, generally, by the Congress from sharing in the land benefits of the Act. This area encompasses the Tlingit-Haida Indians. Prior to enactment of the Settlement Act, this tribe recovered an award of several million dollars against the United States for extinguishment of their aboriginal land claims in the southeastern area.

In consideration of this fact, the southeast region (Sealaska, Inc.) does not generally share in the land benefits accorded to other regional corporations. However, Sealaska, Inc., does receive certain land entitle-

ments under section 14(h)(8) of the Act. The estimate is that Sealaska's share will approximate 200,000 acres.

Practically the entire area of southeastern Alaska is encompassed by the Tongass National Forest. What remains is either State or privately-owned lands, national monuments, village selected lands, mountain tops or glaciers, or otherwise valueless lands. If Sealaska's entitlement under section 14(h)(8) is not to be meaningless, it must be allowed to select lands within the Tongass National Forest.

This section provides that Sealaska, Inc., may select its approximately 200,000 acre entitlement from lands which were withdrawn in the National Forest for selection by village corporation of the southeastern region, but which were not so selected. The section provides that Sealaska, Inc., may not select any lands an Admiralty Island in the withdrawal for the village of Angoon. In addition, no selections can be made in the withdrawal for the villages of Yakutat and Saxman, unless the Governor of the State of Alaska or his delegate consents to such selection.

SECTION 11

Section 11 resolves a dispute between the Chugach Regional Corporation and Sealaska on the boundary between the two regions. It confirms the boundary at the 141st meridian, but provides that the members of the southeastern regional village of Yakutat must be accorded certain traditional uses of lands in the vicinity of Icy Bay in the Chugach region. It is the intent of the Committee that the phrase "in the vicinity of Icy Bay" be construed narrowly to those areas to which the Natives of Yakutat can clearly show past and current traditional uses and that such use right shall not unreasonably restrain Chugach, Inc. from developing its lands in accordance with the purposes of the Settlement Act.

SECTION 12

From the outset of the implementation of the Settlement Act, there have been extreme difficulties encountered in adequately fulfilling the land entitlements of the Cook Inlet Regional Corporation under section 12(c) of the Settlement Act. Under the Statehood Act, the State had already obtained patents to much of the low-lying lands in the region, except for lands within the Kenai National Moose Range. In addition, the Secretary, in an agreement with the State of Alaska in 1972, committed additional lands to the State even though there had not yet been withdrawn sufficient lands for Cook Inlet Region. The subsequent efforts of the Secretary to fulfill his statutory obligation to Cook Inlet has yielded, for the region, selections largely comprised of mountains and glaciers, hardly the settlement contemplated by the Congress. Since early 1972, the Region has been attempting to resolve these issues by litigation, negotiation, and now by legislation.

In the last eight months, a series of intense discussions with the Secretary, the State, and various other interested groups (including local government, mining interests, and environmental groups) has resulted in a negotiated settlement entitled "Terms and Conditions for Land

Consolidation and Management in the Cook Inlet Area." The document harmonizes conflicting interests, seeking to adjust an equitable settlement for Cook Inlet Region consistent with the needs of Alaska and the public at large. As such, it is more than a Cook Inlet Region, Inc. settlement. It seeks to resolve harmful jurisdictional conflicts and arbitrary ownership patterns within the Cook Inlet region. It opens for development lands that should be in private ownership and conserves for public use lands that should have that status.

The section accomplishes this complex task by ratifying and incorporating the proposed "Terms and Conditions" as a part of the bill.

Under the bill, the Region agrees to shift more than half of its statutory entitlement away from the populated Cook Inlet area and, with the consent of the other regions (where applicable), into the adjacent regions.

The Federal government conveys approximately 50 townships of land to the State in addition to other valuable consideration (including a key tract near Anchorage and improved selection rights for the State under the Statehood Act) in exchange for approximately 20.5 townships of land to be conveyed to the United States for the benefit of the Cook Inlet Region and certain of its village corporations.

The Federal government conveys approximately 10,000 acres of the Kenai National Moose Range and certain other lands to the Cook Inlet Region, Inc., in addition to the lands received from the State. The lands thus received by Cook Inlet are in complete satisfaction of its entitlement under section 12(c) and section 14(h)(8) of the Settlement Act.

The settlement.—This section directs and authorizes the Secretary to perform the obligations imposed upon the United States by the section and the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," which document has been submitted to the House Committee on Interior and Insular Affairs, is incorporated into the section by reference, and is printed in full elsewhere in this report.

State participation.—The Committee views the context of an ongoing need for federal-state cooperation in the resolution of land issues in Alaska. The concentration of State patented land, selected within the Cook Inlet Region prior to the 1969 land freeze, makes State participation virtually indispensable. With respect to Cook Inlet, the bill provides the State with a more substantial role in the designation of any land to be received than was true under the Alaska Native Claims Settlement Act. The bill clears the opportunity for the Secretary to convey certain important tracts to the State and precludes the need for Regional selections that would impact important State interests. Resolution of the outstanding Cook Inlet issues precludes the need for Congressional evaluation of the Secretary's 1972 agreement with the State, subsequent to the passage of the Alaska Native Claims Settlement Act, making available to the State lands that might otherwise have satisfied the Cook Inlet Region entitlement. In addition, the Region relinquishes rights it may have to the Swanson River, Beaver Creek and certain other proven oil and gas fields, to lands in the Chelatna area, and to lands located near potential capital sites in the State. Under the bill, the Secretary must report to the

Congress, by April 15, 1976 on the State's final consent to the land consolidation and management plan. Until the issues are resolved, the Secretary is precluded from making conveyances to the State, as identified in the legislation, that would limit the opportunity of the Congress to devise a suitable legislated resolution.

Kenai National Moose Range.—The Secretary is directed to convey sixteen sections of unrestricted surface and subsurface estate, except for a zone along lake and river frontage in which the surface only is transferred and is subject to significant restraints to protect the environment. In addition, the Secretary is directed to convey up to 9.5 townships of subsurface in the Range. There are 3.5 townships in lieu of the Region's entitlement under section 14(h)(8) of the Act. In addition, the Secretary is directed to convey, up to the statutory limit, such subsurface under the Moose Range, as indicated in the "Terms and Conditions," to supplant "in lieu" entitlement under section 12(a) of ANCSA, to compensate for subsurface loss in the Lake Clark area, and in lieu of certain subsurface that would otherwise be obtained under section 14 of ANCSA. The subsurface rights in the Moose Range are to oil and gas and coal, but the extraction of coal is explicitly restricted to carefully supervised insitu liquefaction and gassification processes.

Extra-regional selection.—The Secretary is directed to convey approximately 29.66 townships from outside the boundaries of Cook Inlet Region. These will come from five named Regions unless there is specific consent from another Region and the Secretary and the State. The Regions from which the lands are to be selected have the power to consent. It is not anticipated that the consent will be unreasonably withheld. It was envisioned that the consent would provide, for the other Regions, the ability to protect, primarily, the subsistence interests of their stockholders and certain economic activities. The power to consent, as understood by the Committee, will not be linked to the extraction of consideration from Cook Inlet Region, Inc. Nor is it foreseen that the power would be exercised in withdrawals where the Region involved has no selection itself or where no villages within the Region have selections.

Exchange pool.—The Secretary is directed to maximize a pool of federal properties available to reduce the extent of out-of-region acreage. The Region, after such properties are declared surplus, would be permitted first priority. To the extent properties are made available pursuant to the process described in Section 3(c) of the Alaska Native Claims Settlement Act, only those clearance procedures, if any, there required, will apply. Village corporations may exercise Section 12(b) rights in the pool on the same basis as the Region, but only when the Region determines that it would be appropriate in light of the pool's primary function.

Village selection.—Because of the uncertainties rising from the negotiations, additional time is necessary for the village corporations in the Region to file their selections. The legislation provides an additional year. In case of failure of the agreement, the Region also needs the opportunity to alter its priorities but it is the hope of the Committee that this will be done administratively by the Secretary.

The Committee feels that the Cook Inlet Region was under some

constraints in the negotiations resulting in this agreement. It is expected that ambiguities and uncertainties in the complex, delicately balanced settlement will be resolved favorably, where appropriate, to the Cook Inlet Region.

SECTION 13

Section 13 amends section 21 of the Settlement Act by adding a new subsection (f).

The new subsection provides that, until January 1, 1992, the stock of any Native corporation, including the right to receive dividends therefrom, shall not be included in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

SECTION 14

This section directs the Secretary to pay, by grant, $250,000 to each of the Native corporations of the cities of Juneau, Sitka, Kodiak, and Kenai, and $100,000 to each of the village corporations of Artic Village, Elim, Gambell, Savoonga, Tetlin, and Venetie.

Under the terms of the Settlement Act, the Native corporations organized for the Natives of the four named cities received limited land benefits. However, they are not entitled to share in the fund distribution of the Act. Without funds, these corporations have been severely hampered in carrying out their obligations and duties under the Settlement Act, to plan for the development of the resources, and to preserve and protect those resources.

The listed village corporations elected to retain their former reserves pursuant to section 19(b) of the Settlement Act. As a consequence, they are also precluded from sharing in the monetary compensation of the Act. They too, are severely hampered in carrying out the functions which Congress intended.

SECTION 15

Section 15 directs the Secretary to convey to the Koniag, Inc., the Native Regional Corporation for the Kodiak Region, approximately 186,000 acres of subsurface estate in the area which was withdrawn for that purpose by Public Land Order 5397 and for the proposed Aniakchak Caldera National Monument under Public Land Order 5179. Koniag is permitted access to the surface as reasonably necessary to explore for and extract oil and gas, subject to reasonable regulations by the Secretary.

Under the terms of the Settlement Act, the regional corporations are entitled to the subsurface estate underlying the surface of lands selected by the village corporations of that region, except in cases where such selections are made in a National Wildlife Refuge or in Naval Petroleum Reserve Numbered 4. In that case, the region has the right to an "in lieu" subsurface selection of equal acreage from other lands withdrawn pursuant to section 11(a) of the Act, within the region if possible.

All of the villages of the Koniag region are on Kodiak Island which constitutes the Kodiak National Bear Refuge. As a consequence,

Koniag must take an "in lieu" selection to its subsurface entitlement from other available lands. The nearest such lands are across the straits on the Alaska peninsula.

Pursuant to section 17(d)(2) of the Settlement Act, the Secretary, by Public Land Order 5179, as amended, withdrew approximately 580,000 acres of land for the proposed Aniakchak Caldera National Monument.

Koniag's subsurface entitlement is approximately 600,000 acres. Approximately 380,160 acres were withdrawn by Public Land Order 5397 within the area withdrawn for the Aniakchak Caldera National Monument for purposes of such selection. Under the terms of the Settlement Act such dual withdrawals are reserved for the Congress to decide.

Under the terms of an agreement reached with the Secretary, Koniag agrees to limits its rights in the 17(d)(2) withdrawal to approximately 186,000 acres of lands designated by the Secretary, with a limitation of oil and gas extraction subject to reasonable regulations by the Secretary to preserve surface values from permanent harm. As amended by the Committee, the section requires the Secretary to reasonably make available to Koniag sand and gravel necessary to exercise the rights conveyed.

SECTION 16

Section 16 is intended to prevent the Village Corporation for the Village of Tatitlek from losing part of its land entitlement as a result of a misunderstanding. Tatitlek relied on a consultant firm's advice and the apparent approval of the Interior Department in selecting two townships of its five township entitlement in an area withdrawn by the Secretary pursuant to section 17(d)(2) of the Settlement Act. Subsequently, however, the Bureau of Land Management disapproved the selection of the two townships. Because Tatitlek assumed that its selection had Departmental approval, it did not over-select other lands to provide alternate lands for selection in case its first selections were not approved. The deadline for village selections has passed and the Department has advised Tatitlek that no administrative remedy exists to allow re-selection of the two townships elsewhere. This amendment provides that Tatitlek can select the remainder of its entitlement—40,000 acres—from within the village deficiency area originally withdrawn for its selection.

SECTION 17

Section 17 amends subsection (f) of section 22 of the Settlement Act which provides certain authorities for land exchanges by Federal agencies with other land owners in Alaska.

In order to facilitate the Cook Inlet Area agreement provided for in section 12, the Department of the Interior advised that additional authorities for land exchanges would be needed.

The existing language of the subsection would not permit direct exchanges of land between the State and with Native corporations.

Secondly, section 6(i) of the Alaska Statehood Act prohibits the State from transferring the mineral interest to third parties in patents of lands selected by it under the Statehood Act.

Finally, the existing language of subsection (f) requires exchanges to be on the basis of equal value.

The amended language will permit direct exchanges of land between the State and Native corporations. It will permit the State or transfer mineral interests, notwithstanding section 6(i) of the Statehood Act, to Federal agencies in such exchanges. Finally, it will permit exchanges under the subsection to be on a basis other than equal value if the parties agree to the exchange and the Secretary deems it to be in the public interest.

SECTION 18

Section 18 is merely a savings clause which provides, that except as specifically provided in this legislation, the provisions of the Settlement Act are fully applicable to this legislation and nothing herein shall be construed to alter or amend those provisions.

TERMS AND CONDITIONS FOR LAND CONSOLIDATION AND MANAGEMENT IN THE COOK INLET AREA

Section 12 of H.R. 6644, as amended by the Committee, implements an agreement reached among the United States, the State of Alaska, the Cook Inlet Regional Corporation, and other interested parties to resolve the problem Cook Inlet Region, Inc., encountered in realizing its land entitlements under the Settlement Act. That section is general in terms and incorporates into it, by reference, the text of the agreement reached by the parties. The Committee intends that section 12 and the implementing agreement be construed together to give effect to the settlement of the Cook Inlet problem in a manner that is fair and equitable to the Cook Inlet Regional Corporation and the other parties.

The agreement is as follows:

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 Tustumina, 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. CIRI 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 CIRI 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 CIRI 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 CIRI 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 bonafide 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 Tustumena and shall only convey the surface estate to CIRI. 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 CIRI 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 (3.58) 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., F. 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 nd 30). The Secretary shall transfer to CIRI the above described lands in fee simple. Such conveyance shall be subject to a restrictive convenant, 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(c) 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 Ahtna 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 wihout 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 18, 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 I-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

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(3)(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 7(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, 124 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-

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. 318.

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 ½), 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 (E½), S.M.
T 4 N R 30 W and 31 W (E ½), 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 Iniakin 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 (E½) W, S.M.
T 5 S, R 25 W, S.M. (except sections 18, 19, and 30).
T 4 S, R 24 W (S½), S.M.
T 4 N, R 19 W, S.M.
T 4 N, R 20 W (E½) S.M.
T 4 N, R 18 W (W½) 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(b) 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, W½S17—comprising approx. 6,080 acres, more or less

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

Sec. 9, approx. 70 acres in the SW¼ lying south and west of the high water mark on the south and west bank of the Kasilof River.

Sec. 16, approx. 480 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); 29–32–comprising approx. 4,800 acres.

*These lands total approximately 82,080 acres (128 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. 3 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, Ninilchik 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 II 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.*—38,400 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.*—4,800 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 CIRI'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, Ninilchik 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 CIRI within eighteen months following the implementaiton of this document by nomination of compact units no less than ¼ 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 CIRI's selection pool, it may obtain up to one township of such lands. If Tyonek Corporation does trade for CIRI's selection pool lands, CIRI 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., W½, excluding Sec. 1:
T. 14 N., R. 15 W., S.M.:
T. 14 N., R. 14 W., S.M.:
T. 14 N., R. 13 W., S.M., W½:
T. 14 N., R. 11 W., S.M.:

T. 14 N., R. 10 W., S.M., W½;
T. 13 N., R. 15 W., S.M.;
T. 13 N., R. 14 W., S.M.;
T. 13 N., R. 10 W., S.M., E½ 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 W½SW¼; 24 NE/4 NE/4.
T. 11 N., R. 12 W., S.M., Secs. 18, 19 excluding SW¼, S½ SE/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-½; 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-¼; 17, SW-½; 18, SE-¼; 19, E-½, E-½ W-½; 20; 21, W-½; 28, W-½; 29, 30, 31, 32.

(c) The State shall provide a floating, public, 300 foot wide transportation 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 ¼ 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 respect 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 Iliamna Area and in the Nushagak River and Lake Clark Drainages

Paragraph III(A)(1))

I. The Secretary shall convey to the State 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 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/buna 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 Tutna 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 8S, 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 ¼).
Section 10 (except S ½).
Section 11 (except S ½).
Section 12.

T 13 N, R 3 W, S.M.:
Section 34 (except N ½ NE ¼ NE ¼)
Section 35 (except NW ¼ NW ¼, N ½ SW ¼ NE ¼ NE ¼)
Section 36 (except NE ¼ SE ¼ SE ¼ NE ¼)

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 ½).
T 4N, R 32 W, S.M.
T 3N, R 31 W, S.M. (W ½).
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 *Edwardsen* 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 *Edwardsen*, 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 *Edwardsen* 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 *Edwardsen* 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.

Inflationary Impact Statement

The Federal expenditures and costs authorized and required by this legislation are relatively small and would have no significant inflationary impact.

Cost and Budget Act Compliance

The bill authorizes appropriations of $25,000 in section 12(g) and $1,600,000 in section 14.

In addition, extension of the Land Use Planning Commission by section 7 for three years will mean an extension of the appropriation authorized by section 17(a)(9)(B) of the Settlement Act which is for $1,500,000 for each fiscal year.

Indirect costs can be attributed to the payment of interest on the escrow account authorized by section 2; the payment of interest on the Alaska Native Fund authorized by section 5; and loss of tax revenue from the exemption contained in section 13. It would be impossible to ascertain such indirect costs at this time, but they would be relatively minimal.

Oversight Statement

The development and consideration of the bill, H.R. 6644, was in large part due to the oversight activities of the Subcommittee on Indian Affairs. The Subcommittee held oversight field hearings on the Settlement Act in Alaska in the 93rd Congress and again in August of 1975.

Committee Recommendation

The Committee on Interior and Insular Affairs, by a voice vote, recommends enactment of H.R. 6644, as amended.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Act of December 18, 1971 (85 Stat. 688)

* * * * * * *

Sec. 7. (a) For purposes of this Act, the State of Alaska shall be divided by the Secretary within one year after the date of enactment of this Act in twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by operations of the following existing Native associations: . . . . Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved [.] *: 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 unreason-*

able or arbitrary action relative to such lands for the primary purpose, and having the effect, of impairing or curtailing such rights and privileges.

* * * * * * *

(b) . . .

SEC. 16. (a) * * *

(b) During a period of three years from the date of enactment of this Act, each Village Corporation for the villages listed in subsection (a) shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such township. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Land Survey System. *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.*

(c) * * *

(d) The lands enclosing and surrounding the village of Klukwan which were withdrawn by subsection (a) of this section are hereby withdrawn 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. 17. (a) * * *

[(10) On or before May 30, 1976, the Planning Commission shall submit its final report 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 recomendations for programs or other actions which it determines should be taken or carried out by the United States and the State. The Commission shall cease to exist effective December 31, 1976.]

(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, 1976. A final and comprehensive report covering the above matter shall be so submitted on or before May 30, 1979. The Commission shall cease to exist effective June 30, 1979.

* * * * * * *

SEC. 21. (a) * * *

(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. 22. (a) * * *

[(f) The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange lands or interests therein in Alaska under their jurisdiction for lands or interests therein of the Village Corporations, Regional Corporations, individuals, or the State for purpose of effecting land consolidations or to facilitate the management or development of the land. 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 properties exchanged.]

(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(i) of the Alaska Statehood Act), or any federal agency for the purpose of effecting land consolidations or to facilitate the mangament 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. 28. Any corporation organized pursuant to this Act shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74) and the Securities Exchange Act of 1934 (48 Stat. 881), as amended, through December 31, 1991. 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. 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 1964, 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. 30. (a) Notwithstanding any provision of this Act, any corporation created pursuant to section 7(d), 8(a), 14(h)(2), or 14(h)(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), 14(h)(2), or 14(h)(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 dis-

senting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this Act effected prior to December 19, 1991. 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 participated in 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 19(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; land selection eligibility; or revenue sharing pursuant to sections 6(c), 7(m), 12(b), 14(h)(8), and 7(i) 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.".

Departmental Reports

The Committee received two reports from the Department of Interior; one dated May 12, 1975 which addressed H.R. 6644, as originally introduced, and one dated December 10, 1975, which addressed the bill as reported by the Subcommittee. In addition, the Securities and Exchange Commission, and the Department of Agriculture commented on the legislation. The letters follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 12, 1975.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 6644, a bill "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."

We recommend enactment of H.R. 6644, if amended as suggested herein.

Section 101 of the bill authorizes the Secretary of 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 deadline was established by regulations issued pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688). Under section 101, the Secretary would 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. The section also provides for the issuance of regional corporation stock to those Alaska Natives enrolled pursuant to this provision as well as the distribution of payments to those Natives enrolled pursuant to this section that are equal to payments made to those Natives originally enrolled. It further states that Natives enrolled pursuant to this provision shall not affect the eligibility status of land entitlement of eligible village corporations, regional corporations, the four named cities, or groups as defined by the Alaska Native Claims Settlement Act.

We strongly support the reopening of the rolls of Alaska Natives eligible to receive benefits under the Alaska Native Claims Settlement Act (ANCSA), and to allow otherwise eligible Alaska Natives who missed the enrollment deadline to enroll. Although we make no apology for the manner in which we handled in a very brief period of time one of the largest enrollment campaigns ever conducted, we recognize that not every eligible Alaska Native learned about the benefits of ANCSA in time to meet the filing deadline of March 30, 1973. Our estimate is that as many as 2,000 otherwise eligible persons had not applied for enrollment by that date. Some of these cases involve substantial equities. For example, some are minors whose guardians neglected to enroll them; others did not receive the enrollment forms or were under misapprehensions concerning their ancestry.

We are also in agreement with the provisions of section 101 that would not allow the addition of these late enrollees to result in changing the status of those villages and groups whose eligibility status was determined pursuant to the figures that were established by the roll certified by the Secretary of the Interior on December 18, 1973. That roll would, under the provision of section 101, establish the proportionate shares of villages, groups, and regional corporations as to their

land entitlements and the new enrollment authorized by this amendment would not affect the proportionate share, nor would it be used to disqualify a group because it had more than 24 Natives enrolled as a result of the addition of late filers. We question the need for the inclusion of the four named cities, Sitka, Juneau, Kenai, or Kodiak, in this section because their land entitlement is not determined by the number of Natives enrolled to each of these locations. Therefore, we recommend that all reference to the four named cities be omitted.

Section 101 refers to the enrollment deadline of March 30, 1973, as having been established by section 5(a) of ANSCA. That deadline was established by regulation (25 C.F.R. 43h *et seq.*). We recommend that the reference to the authority of section 5(a) of ANCSA be deleted.

Section 102(a) of the bill provides the Secretary of the Interior with authority from and after the date of enactment, to deposit receipts derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANCSA in an escrow account until such time as disposition is made of the land and then to transfer them 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 shall be deposited in the U.S. Treasury or paid out as required under law. Section 102(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 (25 U.S.C. 162(a)). However, the section specifically prohibits the creation of a trust relationship with regard to the funds authorized for investment and reinvestment by the section.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the creation of the escrow account, we cannot support the provisions of section 102(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 102(b) would establish an unfavorable precedent.

Section 102(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands withdrawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporation or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of con-

veyance to the Natives, thereby making the two payments operative at the same time.

While subsection 102(a) establishes an escrow account, and addresses the issue of the disposition of receipts from activities by the Secretary on lands withdrawn for Native selection but not yet conveyed, it does not clarity certain accounting procedures related to these activities. A system is necessary to accurately relate revenues to specific tracts producing the revenues and tracts selected. To clarify these accounting procedures we recommend the addition of subsections (c) and (d) to section 102.

Subsection 102(c) relates to public easements reserved in any conveyance pursuant to subsection 17(b)(3) of ANCSA. Many of the actions arising from these reserved easements may not be performed until years after the conveyance has been issued. Although the reservation has been made in the conveyance, subsection 102(c) would insure that proceeds derived from these subsection 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share:

"(c) Any and all proceeds from public easements reserved pursuant to subsection 17(b)(3) of the Alaska Native Claims Settlement Act (85 Stat. 688), 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."

Without the certainty provided by subsection 102(c), it would be administratively prohibitive to distribute the income to the owners of the land covered by the easement reservation.

Subsection 102(d) will clarify accounting procedures under ANCSA, so that although most contracts, leases, permits, rights-of-way and easements may be paid on lands withdrawn for Native selection on an annual basis, payment to be made at the begining of the year, if a conveyance should be made in the middle of the year, the grantee would receive proportional income from such contracts, leases, permits, rights-of-way, and easements:

"(d) Any and all income on all earnings from contracts, leases, permits, rights-of-way, or easements issued for the surface or minerals covered under the conveyance prior to the issuance of such conveyance under the Alaska Native Claims Settlement Act (85 Stat. 688), shall be paid to the grantee of such conveyance on that portion of the lands conveyed pro-rated from the date of enactment of this Act."

Subsection 102(a) refers to "any and all proceeds derived" from certain less-than fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. The language of subsection 102(a) should be amended in order to exempt these two payments from the application of this provision.

Section 102 should contain a provision parallel to that of section 26 of ANCSA. We recommend that a new subsection (e) be added:

"(e) To the extent that there is a conflict between the provisions of subsection (2) of this section and any other Federal laws applicable to Alaska, the provisions of subsection (a) of this section shall govern.

Any payment made to any corporation or any individual under the authority of subsection (a) of this section shall not be subject to any prior obligation under sections 9(d) and 9(f) of the Alaska Native Claims Settlement Act (85 Stat. 688)."

Section 103 of the bill would add a new section 28 to ANCSA. Section 28 would exempt until December 31, 1976, any corporation organized pursuant to ANCSA from the provisions of the Investment Company Act of 1940 (54 Stat. 789, as amended). We defer in our views concerning the provisions of section 103 of H.R. 6644 to those of the Securities and Exchange Commission who, we understand, will shortly submit its report to the Congress.

Section 104 of this bill would add a new section 29 to ANCSA. New subsection 29(a) would provide that payments and grants made under ANCSA are compensation for extinguishment of claims to land by Alaska Natives and are not to be deemed to substitute for any governmental program that would otherwise be available to Alaska Natives as citizens of the United States and of the State of Alaska.

New subsection 29(b) of ANCSA would specifically exempt any benefits an Alaska Native might receive pursuant to ANCSA from consideration in determining the eligibility of any Native household to participate in the food stamp program under the Food Stamp Act of 1964.

With regard to the provisions of section 104 of this legislation, we have not yet formulated a position and, therefore, we are not able to offer comments at this time. This provision is currently under examination within the Administration.

Section 105 of the legislation provides that the funds deposited in the Alaska Native Fund under ANCSA are to be considered funds held in trust by the United States Government for Indian tribes pursuant to the provisions of Section 1 of the Act of February 12, 1929 (25 U.S.C. 161(a)).

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of Natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ."

Under section 106, except as specifically provided in H.R. 6644, the provisions of ANCSA are fully applicable to this legislation and this bill shall not alter or amend any such provisions. We have no objection to this section.

Section 107 of the bill authorizes mergers or consolidations among regional and village corporations within the same region and would apply only to corporations authorized pursuant to sections 7 and 8 of the Alaska Native Claims Settlement Act. All mergers would be subject to the applicable provisions of the laws of the State of Alaska, as would any resulting corporations. Section 107 would also allow the subsequent merger or consolidation of merged corporation with each other, provided they are in the same region. The mergers authorized by corporation shareholders either before or after passage of this bill would be covered and could take place under the provisions of the bill. This provision would allow a merger that was approved by corporation stockholders with the merger vote contingent upon enactment of legis-

lation of the type set out in this bill to be completed upon enactment of the bill. This provision is necessary because of ongoing efforts to merge village corporations, particularly in the NANA Region of Alaska.

The section gives to the merged corporation, upon the effectiveness of the merger, all rights and benefits that ANCSA confers upon the individual corporations and also makes them subject to all the restrictions and obligations that were made applicable to the individual corporations by the Alaska Native Claims Settlement Act. The section specifically states that transfers of rights and titles made pursuant to a merger would not affect the tax exemptions granted by the Alaska Native Claims Settlement Act.

Subsection (c) deals specifically with the rights of enrolled Alaska Natives who are shareholders of a regional corporation but are not residents of any of the villages in that region. Section 7(m) of the Alaska Native Claims Settlement Act gives those Alaska Natives a right to receive dividends that represent their pro-rata share of the dividends paid to village corporations when the regional corporations make distributions to the village corporations under secton 7(j) of the Settlement Act. This provision would allow the elimination of this right to dividends if it is part of a merger or consolidation plan but only if those non-village residents can, under the laws of the State of Alaska, vote as a class on the question of the merger or consolidation which contains the elimination provision. However, after any merger in which the special dividend rights were not affected and the at-large shareholders did not vote as a class on the merger, distributions to the at-large shareholders would continue as if the merger had not taken place.

Subsection (d) specifically provides that notwithstanding the provisions of this bill or any other law, no merger or consolidation of corporations can take place without the approval of the shareholders of the corporations being merged or consolidated.

Since enactment of the Settlement Act, many of the village corporations have found that they are too small to effectively manage their resources and responsibilities under the provisions of ANCSA. In the remote areas of Alaska, there is a shortage of trained managers who can run the many corporations, a demand that would be lessened by the bringing together of several of the smaller villages into one management unit. It would also be easier for the regional corporations to deal with one or two village corporations rather than ten or fifteen. The multiplicity of villages also dissipates the funds that are distributed to the villages, funds that can be used for improvements for Native people rather than being paid out to large numbers of professional managers necessitated by the large number of villages.

This section is needed to allow mergers or consolidations to take place because the Alaska Native Claims Settlement Act prohibits for a period of twenty years from the date of its enactment the alienation of corporation shares issued pursuant to the Act except under certain limited circumstances. There is no exception concerning alienation for the purpose of merger or consolidation. H.R. 6644 will modify this restriction on alienation sufficiently to authorize mergers and consolidations.

In our judgment this section offers sufficient safeguards and offers

the Alaska Natives the opportunity to bring about mergers and consolidations that will better enable them to manage the benefits they are receiving under ANCSA. We recommend its enactment.

Section 108 extends the life of the Joint Federal-State Land Use Planning Commission, created by section 17(a)(10) of ANCSA, to June 30, 1979. We have no objection to the provisions of this section.

Section 109 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation. Section 110 of the bill creates a new section 30 of ANCSA which sets out the procedures to be followed by the Secretary of the Interior in carrying out his responsibilities in creating the thirteenth region. These responsibilities include: (1) enrolling therein those Alaska Natives who wish to participate; (2) how the corporation for the thirteenth region shall be created and how its interim Board of Directors is to be selected; (3) the instructions for submission of the articles of incorporation for the thirteenth regional corporation; (4) provisions covering the distributions made from the Alaska Native Fund and the impact of the thirteenth region on that fund; (5) authority to make adjustment in the distributions from the Alaska Native Fund when the thirteenth region enrollment is completed; and (6) the authority of regional corporations to cancel, without any liability, the stock of those of their members who shift their enrollement to the thirteenth region.

While we support the enactment of sections 109 and 110, we recommend that section 110 be amended as suggested herein.

It appears that little purpose would be served in prohibiting a potential enrollee in the 13th region from notifying the Secretary of his decision before the end of 60 days after enactment of this section. A Native should not be punished for immediately notifying the Department of his decision. Therefore, we recommend that the phrase "not less than 60 days nor" be deleted from the new section 30(a) of ANCSA.

In carrying out the provision of ANCSA, some of the time constraints under which the Department has had to operate have been extremely limited. We recommend that the time provided for each Alaska Native to inform the Secretary of his intention be extended.

Further, some Natives attempted to amend their enrollment applications before December 1, 1973, to indicate a change in whether they wished to be enrolled in the 13th region. Section 110 provides in the new section 30(a) of ANCSA that any Native who does not file a change with the Secretary within the 60 to 90 day period must return to the status in his "original enrollment application." It would seem more appropriate to place such Native under the "election last filed," and we recommend that this language be substituted instead.

New section 30(a) requires the Secretary to prepare and certify a "final roll" within 120 days which will supersede the temporary roll authorized by "this subsection." Subsection 30(a) does not authorize a temporary roll. This could result in a construction in subsection 30(a) of reference to the roll of December 18, 1973. New subsection 30(f) of ANSCA created by section 110 of this bill authorizes a temporary roll, and if subsection 30(a) refers to this temporary roll then the word "subsection" should be changed to "section."

The fourth provision of new section 30(a) directs the Secretary to prepare and certify a final roll under that section within 120 days of the section's enactment. New section 30(a) would require a second enrollment campaign in addition to that authorized by section 101 of this legislation. In our judgment, the enrollment requirement upon the Secretary of 120 days after enactment under new section 30(a), running simultaneously with the one year enrollment requirement under section 101, would impose a prohibitive administrative burden. We recommend that the words "Within one hundred and twenty days of the enactment of this section" in the fourth provision of new section 30(a) be amended to read "Within one year of the enactment of this section."

The final provision of new section 30(a) allows the Secretary to incorporate in the final roll authorized here "other changes made by the Secretary in accordance with the Act." The changes presently being made in the roll are not literally "in accordance with the Act" but are changes made on earlier principles of law which have been construed as applicable to the Settlement Act. Therefore, this last phrase should be deleted. The presence of this last sentence raises the possibility of the construction that the temporary roll referred to earlier will be the roll of December 18, 1973. It cannot be expected that all corrections in that roll will be made in time for the applicability of this section.

New Section 30(c) of ANCSA provides the instructions for the submission of the articles of incorporation for the 13th region. The time periods specified are so short for each of the proposed steps that carrying them out will be administratively prohibitive. We recommend these time periods be extended.

New section 30(d) requires that articles of incorporation for the 13th region be approved in accordance with subsection 7(c) of the Settlement Act. Section 109 of this bill amended that section and the amended language is inapplicable to the last sentence of section 30(d). The reference intended is probably to that of section 7(c) of ANCSA.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

STANLEY B. DOREMUS,
Acting Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., December 10, 1975.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This Department would like to offer its views on H.R. 6644, as reported by the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs on September 30, 1975. H.R. 6644 is a bill "To provide, under or by amendment of

the Alaska Native Claims Settlement Act, for the later 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."

We recommend enactment of H.R. 6644 as reported by the Subcommittee on Indian Affairs if amended as suggested herein.

SECTION 1

Section 1(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 (ANCSA) except for their failure to meet the March 30, 1973, deadline.

Further, section 1(a) sets forth the procedures for making all the changes required by the amendments to the roll resulting from the new enrollments thereunder, specifically with regard to the issuance of stock in the proper Native corporation to any Native newly enrolled and to future distributions under the Settlement Act. Section 1(a) also provides that no land entitlements of regions, villages or groups, or eligibility of villages or groups, will be affected by the changes in enrollment thereunder. We support the provisions of section 1(a).

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

On St Lawrence Island, where the village corporations of Gambell and Savoonga elected to take title to their former reserves, approximately 20 Natives enrolled to places or the Island itself other than to Gambell or Savoonga. Therefore, they are not members of either village, and are not entitled to benefits received by these village corporations under ANCSA. These individuals are currently shareholders at-large in their regional corporation. Under section 1(b) they would be given the opportunity to enroll in one of the villages, or remain shareholders at-large in their region. The language of section 1(b) is general and would apply to other situations similar to St. Lawrence Island.

While we support the provisions of section 1(b), we would note that St. Lawrence Island is not a village or group, but a place. This section would better serve its purpose if the words "Native villages or Native groups" on page 3, line 6, were deleted, and the word "places" substituted instead, and the words "village or group is" on line 13, page 3, were deleted, and the words "those places are" substituted. Otherwise, the bill may not resolve the problem of the major category of people it was designed to help—the Natives enrolled to places on St. Lawrence Island.

Section 1(b) is unclear as to whether the Secretary may allow these individuals to enroll to the section 19(b) villages at their option, or at the option of the villages concerned. We construe section 1(b) to mean the former.

Further, we would note that the individuals eligible to elect under section 1(b) are currently enrolled at-large to their region and, if they do not elect to enroll to a section 19(b) village corporation, they will remain at-large shareholders. Accordingly, we recommend that the words "to enroll" on page 3, line 12 be deleted and the words "remain enrolled" be substituted in their place.

We would also note that section 1(b) may impact the Regional entitlements under sections 12(b) and 14(h)(8) of ANCSA by changing the Regional population factors.

While we support the provisions of sections 1 (a) and (b), we cannot support the provisions of section 1(c) and recommend that it be deleted.

Section 1(c) directs the Secretary to redetermine the places of residence, as of April 1, 1970, for those Natives who, in the enrollment process, designated their domicile as a place that was later determined ineligible as a Native village or group on grounds which include an insufficient number of residents. Such redetermined residence shall be such Native's place of residence as of April 1, 1970, for all purposes under ANCSA.

We oppose the provisions of section 1(c) for a number of reasons: First, the Natives affected by section 1(c) theoretically designated their residence properly, and this provision would authorize forum shopping to give these Natives a chance to circumvent the consequences of their original choice. These Natives would not only qualify for additional benefits, but would dilute the benefits of those Natives enrolled in those villages or groups to which these section 1(c) Natives would redetermine their residence. In fact, under this interpretation of section 1(c), those Natives who redetermine their residence would receive a greater per capita distribution than those Natives who enrolled properly in the beginning.

Second, section 1(c) discriminates among Natives who are at-large shareholders in a region. Many Natives designated their place of residence on their enrollment application at a location that did not qualify as a Native village under the provisions of ANCSA. Many of the locations failed to qualify as villages because of an insufficient number of enrollees, while other locations failed to qualify for other reasons. All Natives whose place of enrollment failed to qualify as a village were enrolled as at-large members of their respective Regional Corporation. Therefore, those at-large shareholders who enrolled to a location determined ineligible as a village because of an insufficient number of residents get a second chance, while those at-large shareholders who enrolled to a location found ineligible as a village on other grounds, do not. This result is inequitable.

Third, many of the villages determined ineligible by the Department have appealed the determination, so the issue of eligibility is presently in litigation. Further, the Department has not yet determined the eligibility of any Native groups. Therefore, section 1(c) is premature and speculative.

Finally, section 1(c) is unclear as to whether the section applies only to those Natives enrolled to villages found ineligible because of insufficient number of residents, or to villages also found ineligible on other grounds.

SECTION 2

Under section 2(a), the Secretary is given the authority to deposit proceeds received by the Federal government which are derived from contracts, leases, permits, rights-of-way or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to ANSCA in an escrow account until such time as disposition is made of the land and then to transfer such proceeds to the person or entity receiving title to the land. This provision would be effective from either the date of enactment of H.R. 6644 or January 1, 1976, whichever occurs first.

There presently exists no authority in the Secretary of the Interior to pay over to the Alaska Natives the proceeds derived from actions which he must take with regard to lands that are withdrawn for Native selection but which are not yet conveyed. The Alaska Natives have indicated to the Department the need for this authority, and we support the establishment of an escrow account.

While we support the provisions of section 2(a), we recommend a number of clarifying amendments.

First, on page 5, line 2, we recommend that the words "or January 1, 1976, whichever occurs first," be deleted. To administer the escrow account it will be necessary to develop a system which will accurately relate revenues to the tracts producing the revenues and the tracts selected. If H.R. 6644 is enacted after January 1, 1976, the escrow account will be partially retroactive, and the accounting procedures will present administrative and legal difficulties. Further, the monies derived between January 1, 1976 and the date of enactment of H.R. 6644 may have already been distributed to either the State of Alaska under the Mineral Leasing Act, or to the Alaska Native Fund, and thus expended.

Second, the refernce to section 14(g) of ANSCA on page 5, line 2, is incorrect. These leases, licenses, permits or rights-of-way were not issued pursuant to section 14(g), but, rather, were outstanding at the time of conveyance to the Native Corporation and were reserved by section 14(g). Thus, we recommend that the following language be inserted between the words "to" and "section" on line 4, page 5: "appropriate law and which would be reserved in any conveyance in accordance with."

Third, section 2(a) refers to "any and all proceeds derived" from certain less-than-fee interests which may be derived from Native lands prior to conveyance. On certain types of applications, the applicant must pay for a Federal processing fee and for the cost of the environmental impact statement. We recommend that the language of section 2(a) be amended to exempt these two payments from the application of this provision.

Finally, section 2(a) contains two separate time periods for paying out the funds in the escrow account and we recommend that they be conformed. The proceeds derived from the activities on lands with-

drawn for Native selection, which are deposited in the escrow account, are to be paid to the selecting corporations or individual at the time of conveyance. However, receipts in the escrow account from lands withdrawn but not selected shall be paid to non-Natives "upon the expiration of the selection or election rights of the individuals for whose benefit such lands were withdrawn or reserved." We advise that payments to non-Natives from the escrow account be made at the time of conveyance to the Natives, or when the Secretary determines that these lands will not be conveyed to the selecting corporation. Otherwise, the monies in the escrow account may be tied up for a considerable length of time.

While we support the creation of the escrow account, we cannot support the provisions of section 2(b), which would authorize interest payments on such account and give authority to the Secretary to reinvest the proceeds in the account. There are many other similar accounts administered by the Federal Government on which no interest is paid and in which there is no reinvestment authority. In our judgment, section 2(b) would establish an unfavorable precedent.

Section 2(c) relates to public easements reserved pursuant to section 17(b)(3) of ANSCA. Section 2(c) would insure that proceeds derived from these section 17(b)(3) reserved easements at any time after conveyance has been issued, shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. Without the certainty provided by section 2(c), it would be administratively prohibitive to distribute the income to the owners of land covered by the easement reservation.

However, we would note the potential ambiguity with regard to the interpretation of the word "proceeds," in section 2(c). It is unclear whether the term applies to fees derived from permits issued by the U.S. for hauling timber and minerals over these reserved easements, or to the receipts from the sale of the items hauled. Accordingly, we recommend substituting the words "rental and use fees" for the word "proceeds" in section 2(c), line 18, page 6.

Further, we recommend that the words "paid by commercial users for" be inserted right after the term "rental and use fees" on line 18, page 6. It should be recognized that most easements will produce little or no income. However, commercial uses will generate income, which should be made available to the Native owners.

We would also recommend that the period on line 22, page 6, be changed to a comma, and the following words be added: "to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act."

Finally, we would suggest an additional sentence after our amended sentence on line 22, page 6. This sentence reads as follows: "As used in this subsection rental and use fees shall not include road maintenance or other cost-recovery charges levied to a non-Federal user." These costs would not be in the nature of proceeds, but go to the actual cost of maintaining the easement by the United States.

These recommendations are the result of discussions between this Department and the United States Forest Service.

Section 2(d) provides that to the extent there is a conflict between the provisions of section 2 and any other Federal laws applicable to

Alaska, the provisions of section 2 will govern. Further, any payment made to any corporation or individual under section 2(a) of H.R. 6644 shall not be subject to any prior obligations under sections 9(d) or (f) of ANCSA. This Department recommended the addition of a provision to section 2 parallel to that of section 26 of ANCSA in our report on H.R. 6644 as introduced, dated May 12, 1975. This recommendation has become section 2(d) of H.R. 6644 as reported by the Subcommittee on Indian Affairs and we support its enactment.

SECTION 3

Section 3 amends ANCSA to exempt, until December 31, 1991, corporations organized thereunder from the provisions of the Investment Company Act of 1940, the Securities Act of 1933, and the Securities and Exchange Commission Act of 1934. We defer in our views to the Securities and Exchange Commission.

SECTION 4

Section 4(a) amends ANCSA to provide that payments and grants thereunder shall not be deemed to substitute for any governmental programs otherwise available to the Natives as citizens of the United States and of Alaska.

Section 4(b) further amends ANCSA to exempt benefits received by any member of a household under the Settlement Act from being used in a determination of that individual's eligibility to participate in the Food Stamp Act.

The provisions of section 4 are currently under examination within the Administration.

SECTION 5

Section 5 relates to a December 28, 1973, decision by the Comptroller General that the Alaska Native Fund will not bear interest or be eligible for reinvestment by the Secretary pursuant to sections 161a and 162a of title 25 of the United States Code. The actual language of section 5 states that for purposes of 25 U.S.C. 161a and 162a the Alaska Native Fund shall, pending distributions under Section 6(c) of ANCSA, "be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes." Section 5 further provides that nothing in the section will be construed to create or terminate any trust relationship between the U.S. and any corporation or individual entitled to receive benefits under ANCSA.

We object to the classification of these funds as trust funds. Section 2(b) of ANCSA specifically declares that the settlement of aboriginal claims by Alaska Natives should be accomplished ". . . in conformity with the real economic and social needs of natives . . . without creating a reservation system or lengthy wardship or trusteeship . . ." Although the proviso in section 6(c), on page 14, lines 12–13, there is no definition as to what constitutes "within the boundaries of the Native village." We would note that the majority of Native villages are not municipalities and, therefore, do not have boundaries created by State statute as do other Alaskan communities.

SECTION 7

We have no objection to the provisions of section 7, which would extend the life of the Joint Federal-State Land Use Planning Commission for Alaska to June 30, 1979.

SECTION 8

Section 8 amends section 7(c) of the Settlement Act. The new amendment directs the Secretary of the Interior to create a 13th Region for those Alaska Natives who are non-residents of Alaska and gives them authority to establish a regional corporation.

With the exception of the savings clause proviso of new section 7(c)(9), we recommend that section 8 be deleted. Pursuant to an order entered October 6, 1975, by the United States District Court for the District of Columbia, the 13th Region has already been established and the 13th Regional Corporation is in the process of being formed. The manner of formation of the corporation is similar to that prescribed by section 8, with the exception of the election of eligible non-resident Alaska Natives to be in or out of the 13th Region. The manner of this election has also been prescribed by the October 6, court order.

Effective October 1, 1975, this Department established the 13th Region. On October 11, by computer effort, 4,534 persons were transferred from the twelve Alaska Regions into the 13th Region according to their last written request made on or before August 15, 1975. Pursuant to the October 6 court order the Department has invited eight bona fide organizations presently known by the Secretary to represent non-resident Alaska Natives to submit the names of no more than five consenting nominees for election as incorporators and members of the interim board of directors of the 13th Regional Corporation. The Department prepared ballots with the names of 24 such nominees and on November 10 sent one ballot to each of the 3,100 adult 13th Region enrollees with instructions to vote for not more than 5 nominees and to return the ballot by December 1. The results will be tabulated by December 10 and the nominees receiving the highest number of votes shall be recognized as incorporators for the purpose of preparing and submitting the proposed articles of incorporation and bylaws for the 13th Regional Corporation. Those so recognized will also constitute the initial board of directors to serve until the first meeting of shareholders or until their successors are elected and qualify.

The proposed articles of incorporation and bylaws are to be approved by early January 1976; the first meeting of the shareholders and election of the board of directors is to be held by early February, 1976; and by February 15, 1976, the corporation is to be paid its share of monies in the Alaska Native Fund. Pursuant to the October 6 order, when the 13th Regional Corporation makes its first distribution, all adult non-resident Native enrollees, whether or not presently enrolled in the 13th Region, shall be given a final opportunity to elect their preference for enrollment in the 13th Region or one of the other 12 Regions.

Accordingly, we recommend that section 8 be deleted as it is unnecessary, but that the savings clause of amended section 7(c)(9) of ANCSA under section 8 of this bill be retained.

SECTION 9

Under section 19(b) of ANCSA, seven Native villages elected to acquire title to the surface and subsurface estate of former reserves in lieu of receiving both benefits as a Native village under ANCSA, and regional corporation benefits.

Section 9 concerns one of the seven villages, Klukwan, Inc., which voted to retain the former reserve, the Klukwan Reserve or Reservation. Chilkat Indian Village, the organization of Natives who actually reside on the reserve, had negotiated a mineral lease in 1970, and it has been alleged in pending litigation that valid existing rights under this lease may survive the enactment of ANCSA and the extinguishment of the reserve itself. While all the residents of the reserve are members of Chilkat Indian Village, many of those non-residents who enrolled there and are stockholders in Klukwan, Inc., are not members of Chilkat. The mineral deposit is the major element of value in the lands of the former reserve and if the Chilkat position is correct the majority of Kluwan's shareholders would not receive the benefit of either the lease or the Settlement Act.

Section 9 would amend section 16 of ANCSA to allow the shareholders of Klukwan, Inc., to participate in the Act's benefits as if they had not elected to acquire title to their former reserve, including the selection of land, providing that Klukwan, Inc., will quit claim all its rights, title and interest in the reserve to Chilkat Indian Village.

We support the provisions of section 9. However, while section 9 would take care of the reserve land and rights thereto, it may not extend to $100,000 in lease rentals already derived from the lease after the passage of the Settlement Act. In our judgment, the United States and Klukwan, Inc., should also quit claim to Chilkat all rights to rentals and other benefits paid by the lessee prior to the passage of this bill. Further, Chilkat should also relinquish any claims it might have against Klukwan, Inc., the United States or the lessee, for mispayment.

We would note that section 9 may affect the Regions under section 12(c) of ANCSA by decreasing the acreage factor by 23,933, and under section 14(h)(8) by changing the Regional population factor.

SECTION 10

Section 10 would amend section 16(b) of ANCSA. Pursuant to amended section 16(b), the allocations received by the Southeastern Alaska Regional Corporation under section 14(h)(8) of ANCSA would be selected and conveyed from lands withdrawn by section 16(a) of ANCSA that were not selected by the village corporations, with the exception of lands on Admiralty Island in the Angoon withdrawal area, and lands in the Yakutat and Saxman withdrawal areas without the consent of the Governor of Alaska.

With the exception of some small amounts of public domain land around the Village of Klukwan, section 10 would permit the Sealaska Regional Corporation to make land selections pursuant to section 14(h)(8) of ANCSA primarily within the Tongass National Forest. Accordingly, this Department defers to the views of the U.S. Forest Service, as they are the agency with jurisdiction over those lands.

We would point out, however, that section 10 of H.R. 6644 as reported by the Subcommittee on Indian Affairs could have an impact upon section 12(c) of ANCSA. Part of the section 12(c) formula concerns allocations among the Regional Corporations based upon lands selected under section 16 of the Settlement Act. Since section 10 of H.R. 6644 amends section 16(b) rather than section 14(h)(8) of ANCSA, section 10 could be interpreted to affect the formula, and thus the entitlements of the other Regions, under section 12(c) of the Settlement Act.

SECTION 11

Section 11 of H.R. 6644 would amend section 7(a) of ANCSA to fix the boundary between the Southeastern and Chugach Regions at the 141st meridian provided that with regard to lands conveyed to it in the vicinity of Icy Bay, the Chugach Regional Corporation shall accord to Natives enrolled to the village of Yakutat the same rights and privileges for traditional purposes on such lands as it would accord its own shareholders.

The effect of this amendment would be to settle the boundary dispute between the two Regions, and within the settled boundary allow the Natives of the village of Yakutat, which is in the Southeastern Alaska Region, to use the lands around Icy Bay, in the Chugach Region, for subsistence purposes.

Although the boundary question is presently in arbitration in accordance with section 7(a) of ANCSA, if this amendment is acceptable to the two Regions involved, then we would support it. However, we would note that we construe this provision to be self-executing, with the rights and obligations therefrom flowing between the two Regions, and conferring no obligation upon this Department to write this language into patents issued pursuant to ANCSA.

Further, we would suggest that the term "in the vicinity of Icy Bay" on lines 14-15, page 30, be more precisely defined.

SECTION 12

Section 12 of H.R. 6644 as reported by the Subcommittee on Indian Affairs contains provisions to resolve the land selection problem of the Cook Inlet Region, Inc. For several months now representatives of the Department, the State of Alaska, and Cook Inlet have engaged in extensive discussions about possible solutions to this problem. The parties to these discussions have not yet arrived at a mutually acceptable settlement. As of this writing, the final details are still being negotiated.

SECTION 13

Under section 13, a new subsection (f) would be added to section 21 of ANCSA. This new section 21(f) would provide that until December 18, 1991, the stock of any regional corporation organized pursuant to section 7 of ANCSA, including the right to receive distributions under section 7(j), and the stock of any Village Corporation organized pursuant to section 8 of ANCSA, shall not be includable in the gross estate of a decedent under sections 2031 and 2033 of the Internal Revenue Code.

We have no objection to the provisions of section 13. However, we would note that section 7(h)(3) of ANCSA prohibits alienation of stock until January 1, 1992, not December 18, 1991. Accordingly, we recommend that the date "December 18, 1991," on line 4, page 33, be deleted, and the date "January 1, 1992" be substituted in its place.

SECTION 14

Section 14(a) would provide a one-time payment of $250,000 to each of the corporations organized pursuant to section 14(h)(3) of ANCSA. Although the members of these four corporations (Kenai, Sitka, Juneau and Kodiak) are stockholders in their respective regional corporations, these corporations are not themselves recipients of funds under ANCSA. These corporations, however, are incurring expenses in organizing and operating themselves, making land selections and in engaging in necessary planning.

Section 14(b) provides for payments of $100,000 each to six of the seven villages (excluding Klukwan, Inc.) who chose to retain former reserves under section 19(b) of ANCSA. These villages chose title to former reserves in lieu of the benefits accorded a village under ANCSA and, as such, are not eligible to select other land or receive a distribution of regional corporation funds. Further, the members thereof are not shareholders in their respective regional corporations.

Under section 14(c), the funds provided under 14 (a) and (b) are to be used only for planning and development, and for other purposes for which these corporations were organized under ANCSA.

Section 14(d) authorizes $1,600,00 in fiscal year 1976 to implement section 14.

We believe there is no basis for increasing the total amount of the Alaska Native Claims Settlement Act by $1.6 million in addition to the $962,500 million already provided. Any funds provided for these 10 corporations should be authorized from the present Alaska Native Fund.

SECTION 15

Section 15 of H.R. 6644 would direct the Secretary of the Interior to convey to the Koniag Regional Corporation the subsurface estate of certain lands selected by such corporation located within the Aniakchak Caldera National Monument. Further, notwithstanding the inclusion of the surface estate of these lands in any national monument or other national land system referred to in section 17(d)(2) of ANCSA, Koniag, Inc., may use the surface estate as is reasonably necessary to mine the subsurface, subject to regulations by the Secretary to protect the surface.

This provision would legislate an agreement between this Department and Koniag, Inc., concerning the lands within the area proposed by this Department for establishment as the Aniakchak Caldera National Monument in the National Park System under section 17(d)(2) of ANCSA. The Department had agreed to recommend to the Congress, at the time the Aniakchak proposal was being considered, that Koniag, Inc., be permitted to make specific subsurface selections within the Monument.

We believe, however, that a Congressional decision regarding the lands available for selection within the Monument be made at the same time Congress considers the establishment of the Monument. In that way Congress would have before it all of the relevant information concerning the resource values in the area and it would be in the best position to make a judgment on the matter. Further, we believe that public hearings on the amendment should be held. We continue to believe that the better course would be to consider all aspects of each D–2 proposal together, rather than in piecemeal fashion. However, should the Committee decide to go forward with the Koniag amendment at this time, we have no objection to the substance of the amendment in section 15 of H.R. 6644 as reported by the Subcommittee on Indian Affairs.

Time has not permitted securing advice from the Office of Management and Budget as to the relationship of this report to the program of the President.

Sincerely yours,

KENT FRIZZELL,
Acting Secretary of the Interior.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

HON. LLOYD MEEDS,
Chairman, Subcommittee on Indian Affairs, House Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that your Committee is now considering H.R. 6644,[1] a bill to amend the Alaska Native Claims Settlement Act of 1971.[2] The staff of the Commission has recently conferred with representatives of the Department of the Interior and the Office of Management and Budget, and, as a result of that conference, we wish to offer comments with respect to two sections of the proposed bill, Sections 103 and 107, which involve the securities laws, the Investment Company Act of 1940 ("1940 Act") in particular.

Section 103 would add a new provision to the Settlement Act giving the corporations organized pursuant thereto ("ANCSA Corporations") a temporary exemption from the 1940 Act until December 31, 1976. In introducing this bill to the House, Congressman Young indicated that without such an exemption, certain ANCSA Corporations investing some of their funds "in commercial bank time deposit-or certificates of deposit" might "risk being classified as investment companies." He farther indicated that such an exemption would "provide necessary breathing room to the SEC and the Native corporations to permit resolution of long-range problems."[3]

As I indicated in my letter to you of February 1, 1975, commenting upon an identical provision in H.R. 1355,[4] I believe it would be unwise to exempt the ANCSA Corporations from all provisions of the 1940 Act. The Commission's position was then, and continues to be,

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[1] 94th Cong., 1st Sess. (1975), 121 Cong. Rec. H–3506 (daily ed., May 1, 1975).
[2] 85 Stat. 688.
[3] Supra n. 1, at 3506, 3507.
[4] 93rd Cong., 2nd Sess. (1974); 120 Cong. Rec. H–290 (daily ed., January 29, 1974).

that certain provisions of the Act should be applied to ANCSA Corporations falling within the 1940 Act's definition of investment company in order to protect the substantial pools of liquid capital which these companies hold in trust for the benefit of numerous unsophisticated Alaska native shareholders.

ANCSA Corporations are not restricted by the Settlement Act, the securities laws, or Alaska law to investing in bank time deposits or certificates of deposit; and, in fact, it is our understanding that certain of them are investing in other types of securities. In any event, the application of the 1940 Act to a corporation investing in certificates of deposit and other securities of a relatively non-speculative character is more than a technical complication. Numerous so-called money market funds registered under the 1940 Act voluntarily restrict their investments to certificates of deposit, government securities, and like investments; and certain of the protections afforded shareholders of such funds by the 1940 Act would be appropriate for an ANCSA Corporation with similar voluntary investment restrictions.

As you are probably aware, in accordance with my earlier letter to you, the Commission acted promptly last year to exempt the ANCSA Corporations from all but the most essential provisions of the 1940 Act by adopting temporary Rule 6c-2(T).[5] The Commission has received a number of comments on the proposed rule, and, having analyzed these, the Commission's staff has recently submitted a revised version of the proposed rule to the Commission. The Commission intends promptly to consider the staff recommendations and either to adopt a permanent exemptive rule or ask for further public comments on a revised proposal. As presently proposed by the staff, Rule 6c-2 would add the proxy, reporting and record-keeping requirements of the Act to the group of provisions from which ANCSA Corporations registering under the rule would not be exempt. It should be emphasized that both the temporary rule and the proposed permanent rule affect only those ANCSA Corporations which choose to register with the Commission pursuant to Section 8(a) of the 1940 Act.

We should also point out that, if the Congress exempts the ANCSA Corporations from the 1940 Act, a number of the companies would continue to be subject to the Securities Exchange Act of 1934 ("Exchange Act") as companies having 500 or more shareholders and more than $1,000,000 in assets. Such companies would have to comply with the registration, reporting, and proxy solicitation provisions of the Exchange Act. We believe that these provisions provide significant protections to the shareholders of the ANCSA Corporations and that such shareholders should not be given any less protection under the Exchange Act than Congress has given to shareholders of other, more conventional corporations. However, we believe it would be most unfortunate if the ANCSA Corporations were exempted during the time they are investment companies from a statute specifically designed to regulate investment companies and be subject only to the requirements of a statute which is designed basically to inform the Commission and the investing public as to securities of publicly traded companies.

[5] Rule 6c-2(T) exempts ANCSA Corporations registering pursuant to Section 8(a) of the Act from all provisions of the 1940 Act except Sections 9, 17, 30, and 37 (Investment Company Act Release No. 8251, February 20, 1974, attached).

Section 107 of the bill would authorize the ANCSA Corporations to merge or consolidate under Alaska law. First, assuming that Section 103 is not adopted, we do not think this provision standing alone would exempt merger transactions from the Commission's jurisdiction under Section 17 of the 1940 Act, which relates to the transactions between affiliates.

Second, if the bill were changed to exempt such mergers from the 1940 Act, we do not feel that such a change would serve the interests of ANCSA shareholders. Any mergers of ANCSA Corporations which constitute transactions of affiliated persons or companies within the meaning of Section 17 should remain subject, in our view, to the standards of fairness imposed by that section. Commission review of these mergers is especially important because of the difficulty of ascertaining the value of ANCSA Corporation assets for purposes of an exchange of shares or an acquisition of assets.

We have gained some familiarity recently with at least one proposed merger involving ANCSA Corporations, that proposed by the NANA Regional Corporation and a number of its village corporations. As we understand it, that merger would involve the exchange of rights now vested in natives belonging to the various corporations. Such vested rights, although difficult to value at this time, would presumptively differ from one corporation to another; yet, subsequent to the exchange, the affected natives would all have equal rights. We are troubled that such a shift in vested rights among investors who now have the protections of the 1940 Act might, if the proposed bill were adopted, take place without any consideration of its fairness. Our view in this regard is buttressed by our understanding that there is no provision of Alaska Corporation law which provides protections comparable to those afforded by Section 17.

Thank you for the opportunity of commenting on H.R. 6644. We trust that our comments will be of assistance to you and we stand ready to provide you with whatever further assistance you may desire.

Sincerely,

RAY GARRETT, JR., *Chairman.*

Enclosure.

INVESTMENT COMPANY ACT OF 1940

Release No. 8251/February 26, 1974

NOTICE OF ADOPTION OF TEMPORARY RULE 6C-2(T) AND OF PROPOSAL TO ADOPT RULE 6C-2, BOTH UNDER THE INVESTMENT COMPANY ACT OF 1940 CONDITIONALLY EXEMPTING CORPORATIONS ORGANIZED PURSUANT TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT FROM ALL PROVISIONS OF THE INVESTMENT COMPANY ACT OF 1940 EXCEPT SECTIONS 8(a), 9, 17, 36, AND 37. (FILE NO. 87-514)

Notice is hereby given that the Securities and Exchange Commission hereby adopts temporary Rule 6c-2(T) and proposes to adopt Rule 6c-2, both under the Investment Company Act of 1940 ("Act") to exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971[1] ("Settlement Act") (such corporations here-

[1] 85 Stat. 688.

inafter referred to collectively as "ANCSA Corporations"). Such exemptions are conditioned upon adherence by the ANCSA Corporations to reporting and other requirements specified herein. Rule 6c-2(T) is effective as of December 18, 1971, the date of the enactment of the Settlement Act; it will be superseded at such time as the Commission takes action on proposed Rule 6c-2, which, as proposed, would provide the same relief on a permanent basis as is now provided by Rule 6c-2(T).

The ANCSA Corporations have been (or will soon be) organized to hold and administer the extensive land grants, mineral rights, cash, and mineral revenues intended by the Government of the United States to recompense Alaska's native Indian Aleut and Eskimo population ("Alaska Natives") for lands within the State of Alaska. In accordance with this statutory purpose, the ANCSA Corporations will be owned and managed exclusively by Alaska Natives, who will be given shares of stock in the ANCSA Corporations. The ANCSA Corporations consist of twelve "Regional Corporations," representing the Alaska Natives residing in twelve geographical districts designated by the Department of the Interior, and more than 200 "Village Corporations" within these districts each representing Alaska Natives residing in a village.

Although the ANCSA Corporations are to be given substantial real estate and subsurface mineral interests, many of such interests are not presently specifically identifiable as they are to be selected and acquired over a four-year period in accordance with the provisions of the Settlement Act. Distribution of a significant portion of monetary compensation was made almost immediately upon enactment of the Settlement Act, however, and $130,000,000 of such monies has already been received by the twelve Regional Corporations. Furthermore, large additional distributions of cash will be made to the ANCSA Corporations in the next few years, so that, during this period, at least until they have fully exercised their land grant privileges and have begun to engage primarily in owning land or operating a business, many of the ANCSA Corporations may be investment companies within the meaning of Sections 3(a)(1) and 3(a)(3) of the Act.[2]

It appears that, without compliance with the Act or exemptive relief by the Commission, questions may be raised whether many ANCSA Corporations may operate in interstate commerce or buy securities in interstate commerce.[3] Several ANCSA Corporations have filed applications for orders of the Commission pursuant to Section 3(b)(2) of the Act, each claiming, in effect, that the applicant is primarily engaged in a business other than that of being an investment com-

[2] Section 3(a)(1) defines "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) defines "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (excluding Government securities and cash items) on an unconsolidated basis.

[3] Such activities might be precluded by Sections 7(a)(4) and 7(d)(3) of the Act, which provide, respectively, that an unregistered investment company may not engage in any business in interstate commerce and that no depositor or trustee of or underwriter for any unregistered investment company may sell or purchase for the account of such company, by the use of the mails or any means or instrumentality of interstate commerce, any security or interest in a security, by whomever issued.

inafter referred to collectively as "ANCSA Corporations"). Such exemptions are conditioned upon adherence by the ANCSA Corporations to reporting and other requirements specified herein. Rule 6c-2(T) is effective as of December 18, 1971, the date of the enactment of the Settlement Act; it will be superseded at such time as the Commission takes action on proposed Rule 6c-2, which, as proposed, would provide the same relief on a permanent basis as is now provided by Rule 6c-2(T).

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[3] Such activities might be precluded by Sections 7(a)(1) and 7(b)(2) of the Act, which provide, respectively, that an unregistered investment company may not engage in any business in interstate commerce and that no depositor or trustee of or underwriter for any unregistered investment company may sell or purchase for the account of such company, by the use of the mails or any means or instrumentality of interstate commerce, any security or interest in a security, by whomever issued.

pany.[4] In view of the large number of ANCSA Corporations, many of which are potential applicants of this type, and the serious question as to whether such ANCSA Corporations can meet the operational prerequisites for a Section 3(b)(2) order, the Commission has determined to grant appropriate temporary exemptive relief by the promulgation of a rule pursuant to Section 6(c) of the Act and to propose that such relief be made permanent.

Rule 6c-2(T) temporarily removes all ANCSA Corporations from the burden of complying with various requirements of the Act. Such corporations will be obliged to comply with only those provisions which provide essential protection for the substantial pools of liquid capital they hold in trust for the Alaska Natives. Accordingly, Rule 6c-2(T) provides that the ANCSA Corporations shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37, provided, however, that such corporations must comply with certain reporting and other requirements set forth in the rule. Rule 6c-2 would provide exactly the same relief on a permanent basis, if adopted.

Section 8(a) of the Act requires the ANCSA Corporations to register with the Commission by filing a Form N-8A disclosing basic information such as the name and address of the corporation, the names of its officers, directors, and adviser and the identity of other companies substantial amounts of the securities of which are held by the registrant. The more detailed Form N-8B-1 registration statement will not be required.

Section 9 of the Act prohibits a person convicted of certain crimes or enjoined from certain specified activities, generally crimes and activities involving securities transactions and the functions of underwriters, brokers, dealers and financial institutions, from serving as an officer, director, member of an advisory board, investment adviser, or depositor of a registered investment company. Section 9 also provides procedures for the removal of this prohibition under appropriate circumstances.

Section 17, generally speaking, requires Commission approval before the ANCSA Corporations may engage in certain transactions with affiliated persons.

Section 36 authorizes the Commission or a shareholder to bring a civil action against officers, directors, members of advisory boards, investment advisers, depositors or underwriters of registered companies for breach of fiduciary duty involving personal misconduct. It further provides that an investment adviser is deemed to have a fiduciary duty with respect to the receipt of compensation for services or payments of a material nature paid by the investment company.

Section 37 makes it a crime under the Act to steal or embezzle the property of an investment company.

The exemptions granted by the rules may be claimed only by ANCSA Corporations which meet conditions requiring them to file annually with the Commission copies of reports required by Section 7(o) of the Settlement Act, and to maintain the records used as the basis for such reports for examination by the Commission.

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[4] Section 3(b)(2) provides, in pertinent part, that if the Commission finds that an issuer is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, such issuer will not be an investment company within the meaning of the Act.

Rule 6(c)-2(T) is hereby adopted pursuant to Sections 6(c), 38(a), and 39 of the Act. Proposed Rule 6(c)-2 would be adopted pursuant to the same provisions. Section 6(c) of the Act provides that the Commission by rule, regulation, or order may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) states, in part, that the Commission shall have the authority from time to time to make, issue and amend such rules and regulations as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act. Section 39 states in part that, subject to the Federal Register Act, rules and regulations of the Commission under the Act shall be effective upon publication in the manner prescribed by the Commission.

The text of Rule 6c-2(T) is as follows:

> Rule 6c-2(T): Temporray Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporations") shall be temporarily exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certification thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

The Commission finds that the adoption of Rule 6c-2(T) is appropriate in the public interest and is consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. The Commission further finds, in accordance with the requirements of the Administrative Procedure Act[5] that notice of Rule 6c-2(T) prior to its adoption and public procedure thereon are impracticable and unnecessary since the rule will be temporary in its effect and will not exempt any ANCSA Corporations from those provisions of the Act needed to provide essential protections for the assets being held for the benefit of the Alaska Natives until such time as the rule is adopted.[6] Accordingly, Rule 6c-2(T) shall become effective on February 26, 1974, retroactive to December 18, 1971, the date of enactment of the Settlement Act.

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[5] 5 U.S.C. § 551 et seq. (1970).
[6] Id. § 553(d)(1).

The text of proposed Rule 6c-2 is as follows:

Rule 6c-2: Exemption for Corporations Organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("Settlement Act") ("ANCSA Corporation") shall be exempt from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 subject to the following conditions:

Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Section 7(o) of the Settlement Act and shall maintain and keep current the accounts, books, and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certifications thereto. All such accounts, books, and other documents shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require.

All interested persons are invited to submit views and comments with respect to proposed Rule 6c-2, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 10, 1974. All communications with respect to this matter should refer to File No. S7-514. Such communications will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., December 3, 1975.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department of Agriculture would like to offer its views on certain provisions of the Subcommittee Print of H.R. 6644, a bill "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 corporations and for other purposes."

The bill was ordered reported to the full Committee on October 2 by the Subcommittee on Indian Affairs. We understand that the Committee will consider the bill early in December.

The Department of Agriculture has major concerns about certain provisions of the Subcommittee Print which affect the responsibilities of this Department. These include (1) the definition of "proceeds" from public easements as contained in section 2(e); (2) the special treatment provided in section 10 relating to Sealaska's entitlement

under 14(h)(8) of the Settlement Act; (3) the settlement of Cook Inlet Regional Corporation's land selection difficulties as proposed in section 12; and (4) the conveyance of subsurface estate in the proposed Aniakchack Caldera National Monument to Koniag Regional Corporation. Our recommendations on each of these provisions are presented in the enclosed supplemental statement. If H.R. 6644 is amended as recommended in our statement, this Department would have no objection to the enactment of the bill.

This Department is seriously concerned with the repeated efforts to amend the Settlement Act. In our view, the Alaska Native Claims Settlement Act represents a fair and equitable settlement of the interests of the Alaska Natives, the State of Alaska and the nation at large. The Act resulted from long and careful deliberation by several Congresses and represents a careful balance and compromise of the various interests. We are concerned that amendments to the Settlement Act will ultimately result in major alterations of the settlement and lead to the reopening of issues that the Congress and the Executive Branch clearly thought were settled by passage of the Act. This Department would prefer that amendments to the Act be limited to resolving conflicts that are inherent in the Act and to resolving procedural matters which have developed in trying to implement the Act.

The Office of Management and Budget advises that the presentation of this report is consistent with the Administration's objectives.

Sincerely,

ROBERT W. LONG,
Assistant Secretary.

SUPPLEMENTAL STATEMENT OF THE U.S. DEPARTMENT OF AGRICULTURE ON SUBCOMMITTEE PRINT OF H.R. 6644

Section 2(c)—Proceeds From Public Easements

Section 2(c) provides that proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share. The intent of the provision is not clear, and we are concerned about how the term "proceeds" might be construed.

Two types of easements are being reserved in support of the National Forest System program in Alaska. The first type includes those necessary to maintain the existing rights of third parties. Proceeds from these easements will pass to the Natives under the provisions of section 14(g) of the Settlement Act. No easements are being reserved by the Forest Service solely for the future use of third parties.

The second type of easement includes those necessary to provide access to the National Forests and to otherwise support management of National Forest programs. We do not participate any proceeds from these public easements.

We would strongly object to section 2(c) if the intent is to interpret the term "proceeds" to include receipts from sale or use of National Forest resources which require use of a reserved easement—for example, a timber sale contract which required hauling logs over a road on a reserved easement—or if the "proceeds" were to include road maintenance or cost-recovery charges levied by the Forest Service on

a non-Federal user. We do not believe that such receipts or cost-recovery charges should be considered as proceeds.

Therefore, if the Committee determines that Natives should receive certain proceeds from public easements reserved pursuant to section 17(b)(3), we recommend that section 2(c) be amended as follows:

"(c) Any and all rental and use fees paid by commercial users of public easements reserved pursuant to section 17(b)(3) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share, to be computed in the same manner as fractional interests are computed pursuant to section 14(g) of the Settlement Act. As used in this subsection, the term rental and use fee shall not include road maintenance or other cost-recovery charges levied to a non-Federal user."

This proposed amendment has been developed by this Department and the Department of the Interior. It accommodates our concerns about what constitutes a proceed derived from these easements. Under this provision, the receipts from sale or use of National Forest resources which required use of a reserved easement would clearly not fall within the meaning of rental and use fees. In addition, charges levied to commercial users by the Forest Service to recover direct costs would also not be subject to distribution under section 2(c).

Section 10—Sealaska Amendment

Section 10 of the Subcommittee Print would amend section 16(b) of the Settlement Act to permit Sealaska Regional Corporation to select the lands to which it is entitled under section 14(h)(8) from lands withdrawn for but not conveyed to Village Corporations within the Region. However, Sealaska could not select lands on Admiralty Island and, without the consent of the Governor of Alaska, could not select lands in the Saxman and Yakutat withdrawal areas.

The Department of Agriculture strongly recommends that section 10 not be incorporated into H.R. 6644, as amended by the Subcommittee.

The Alaska Native Claims Settlement Act (ANCSA) was the result of long and careful deliberation, negotiation, and compromise by the Congress, the Executive Branch, the State of Alaska, and the Alaska Natives. The resulting settlement represented a carefully constructed balance which was deemed equitable to the interests of the American people, the Alaska Natives, and the State of Alaska. To amend the Act now with regard to land selection would, in our view, undo the balance and equity achieved by ANCSA and lead to the reopening of issues which Congress and the Executive Branch clearly thought were settled by enactment of the Alaska Native Claims Settlement Act.

An important aspect of the balance achieved by ANCSA was the special treatment of land selection by the natives of southeast Alaska. In 1968 the Court of Claims entered judgment in behalf of the Tlingit and Haida Indians of southeast Alaska in the amount of some $7.5 millions. Most of this amount represented compensation for the Federal taking of land which became the Tongass National Forest. In formulating ANCSA, the Congress recognized this cash settlement. It also recognized that the value of lands in southeast Alaska with its water access and commercial timber is greater than that of other regions in Alaska and that there was a need to prevent conflict between

the purposes of the Act and the purposes for which the National Forests were established. Accordingly, under ANCSA, the southeast native village corporations were limited to selections of 23,040 acres each, and the Southeast Regional Corporation (Sealaska) was excluded from land selection under section 12. The only land which Congress entitled Sealaska to select was a share of the balance of the two million acres withdrawn under section 14(h). By specifically authorizing conveyances from the National Forests for section 14(h)(1), (2)(3), and (5), it is clear that Congress did not intend for 14(h)(8) conveyances to be made from National Forest lands.

Section 10 of the Subcommittee Print would alter the balance of the Act by awarding Sealaska a greater settlement than Congress intended and by giving Sealaska selection rights on lands for which compensation has already been granted. It would also have a detrimental effect on land selections by the other Regional Corporations and represent an inequity to them. First, by amending section 16, the Sealaska amendment would affect the formula under section 12 which governs the amount of lands that all other Regional Corporations may select and would reduce the amount of lands to which these corporations are entitled. The effect would be to prevent the conveyance of the full 40 million acres provided for in the Act. Secondly, Sealaska Region would receive 14(h)(8) lands of far greater surface value than would the other Regional Corporations. Moreover, if section 10 is enacted, it is probable that the Chugach and Koniag Regions would desire similar treatment for their entitlements under 14(h)(8). These Regions are claiming difficulty in selecting the full amount of lands to which they are entitled under section 12(c) because of the limitation on selections from the National Forests and the National Wildlife Refuge System.

In our view, the proposal contained in section 10 of H.R. 6644 represents the kind of conflict between National Forest purposes and the interests of the Alaska Natives that ANCSA sought to eliminate. Section 10 would likely result in an additional 200–250,000 acres being withdrawn from the Tongass National Forest. These lands contain the full range of resource values for which the National Forest was established. The public values include significant wildlife habitat, recreation use areas, access to major fishing areas, and lands suited to timber harvest. We believe the benefits of multiple resource management can best be achieved by retaining these lands as part of the National Forest System.

In summary, we urge the Committee not to incorporate section 10 in H.R. 6644. There are sufficient D-1 lands within southeastern Alaska to provide for Sealaska Corporation's selection as originally contemplated in the Alaska Natives Claims Settlement Act. We believe that selections from these lands would be comparable to lands available to other regional corporations under section 14(h)(8) of the Act.

Section 12—Cook Inlet Regional Corporation

Section 12 of the Subcommittee Print would amend section 12 of the Settlement Act by adding a new subsection (f) to permit exchange of Federal lands withdrawn under section 17(d) for State patented lands and interests therein. These State lands would then be conveyed to Cook Inlet Regional Corporation along with two townships of National Forest lands. In addition, subsection (3) would permit the Cook

Inlet Region to select lands withdrawn for village selection in other regions.

We oppose section 12. The proposed conveyance of two townships of National Forest land represents precisely the kind of conflict between the purposes of the Settlement Act and the purposes of National Forests that Congress sought to resolve in passing the Settlement Act.

We understand from the Department of the Interior that a mutually acceptable settlement has not yet been reached with Cook Inlet Regional Corporation. For this reason, we recommend that congressional action on this issue be deferred.

Section 15—Conveyance to Koniag Regional Corporation

Section 15 of the Subcommittee Print would convey to Koniag Regional Corporation the subsurface estate under certain lands proposed for establishment as the Aniakchak Caldera National Monument.

While the lands and interests involved in this conveyance are not under the jurisdiction of this Department, we are opposed to the inclusion of this provision in H.R. 6644.

The Settlement Act provides for dual withdrawals of the d-2 lands and for these dual withdrawls to be considered at the time the Congress considers the d-2 proposals for new national forests, parks, refuges, and wild and scenic rivers. We are unaware of any urgency which would necessitate resolving the selection of Koniag Regional Corporation's land selection problems now. In our view, the better course is to consider all aspects of each d-2 proposal together as the Settlement Act provides. Accordingly, we recommend that section 15 not be enacted.

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Joint Meeting of the House and Senate Natural Resources Committees
Jury Assembly Room, State Court Building, Anchorage, Alaska
Saturday, February 7, 1976

(tape one)

: ...people somehow feel that the Congress of the United States has the authority to liberalize what State administrators can do with the authority that they have been given by the State Legislature. This is absolutely false; Congress cannot release State administrators from the responsiblities of the State Constitution and State Statutes. Only the Legislature of the State of Alaska can do this. So whatever Congress says or whatever you may think Congress may have said with respect to the supposed amendment of the Statehood Act, it's irrelevant. What the administration can do, must be done within the framework of the laws which you have passed or which you will pass. So in no way is this trade related to what Congress has said or has not said with respect to the section of the recently passed Omnibus Act. I would like at this point, since I believe that we will have a substantial amount of testimony today from interested members of the public concerning one aspect of the trade, that is the trade involving lands in the Beluga area, to have Mr. Ross Shaff explain in a short summary form some of the points that were raised in the document which has been put out as an open file report by the Division of Geological-Geophysical Survey, namely this yellow report which a number of you have and I see Senator Rader reading now, entitled "Economic and Geologic Studies of the Beluga/Capps Area and Geologic Resource Occurances in the other areas of the Proposed Cook Inlet Land Trade." We feel that this is appropriate at the outset to define a few of the terms and parameters which you may hear mentioned today so that everyone here will be able to understand when a term's used that, hopefully, everybody is using it in the same method. And so I would like at this time to ask Ross to summarize that report.

Sen. Poland: As each of the people speak, we would appreciate if they would give their names and position in the department (IA)

Shaff: Senator Poland and members of the committee. My name is Ross Shaff and I'm the State Biologist and as such, I'm Director of the Division of Geological/Geophysical Surveys of the Department of Natural Resources. Traditionally, our State survey as well as the United States geological surveys, our main function has been to provide information in part about land areas if possible and to be involved in policy decisions. Since the Cook Inlet State land trade became an issue, our survey has provided as much information to various interested parties as possible including the Division of Lands and the Commissioner of Natural Resources. We thought it might be helpful to the Legislature if we could compile as much of this information that has been submitted to other people into one report and this is a preliminary open file report which I believe was distributed by the Commissioner a few weeks ago. The authors of this report are present here today to answer any of the details of the technical questions which you may have. Actually our interest in the Cook Inlet Basin began some time ago and there are other detailed publications of our survey, Open File Report #51 dealing with coal resources in Alaska in general. And Open File Report #74 dealing with Cook Inlet coals in particular. This Open File Report then is essentially a summary of information that we have access to and would like to share with the Legislature.

(IA - inaudible)

The report is divided into three parts; part one speaks specifically to the reserves that we estimate are present within the land trade area in the Beluga region. This report was done by Don McGee who is here today and he'll answer questions as to how we arrived at these figures and so forth. His best estimate of known coal reserves in the Beluga land trade area only 570 million short tons. The hypothetical reserves within the land trade area, amounts to 2 billion short tons. This does not include the 1.6 billion known short tons in the mental health lands. These figures are only for the land trade area within the Beluga region. I think it is very important that we come to a clear definition as to what we mean by known reserves and hypothetical. We have seen in newspaper articles very large figures without a qualifying adjective to indicate whether they're talking about known coals or hypothetical. There is an established terminology, I say established - generally accepted terminology for known and hypothetical which are the two terms that we've used mainly in our report and I think the easiest way to say this is that in the case of known recoals, we're 95% sure that those coals are there. We are not saying necessarily that the coals are economic, that they are recoverable; we are saying we know those coals exist in a given region. When we're talking about hypothetical coals, we are in the realm of speculation and we are really saying that in our professional opinion the geological setting is adequate for the formation of coals and that it is probable that those coals exists and we must make a few assumptions as to the thicknesses of coals based on very scattered data and arrive at some very broad figures. Actually, this hypothetical estimate will be different depending upon the operator or the investigator.

Part two of our report speaks to the loss of royalty income to the State of Alaska if the Beluga coals are transferred to CIR. The study that we did shows two main things; one is that the income to the State of Alaska in terms of royalty on coals is really a function of the rate at which those coals are produced. Inasmuch as the royalty is based upon ten cents per ton, the royalty may be moved upward or downward, but based on a tonnage factor. Pat Doby is the author of this report; he is here today to answer specific questions on this and to give you some summary numbers of this part of the report - our total estimated accumulative to the year 2025 would range between 84 million dollars and 650.9 million dollars. If we discount those figures at 8% to present day values, we would be talking between 6.5 million and 67 million. If we discount them at 10%, we would be talking between 3.7 million and 42 million as income to the State. This does not include rental fees or lease fees. Now the royalty would be the largest amount of money of income to the State. This is what this study points out.

The third section of our report deals with the other trade areas and here we are more or less in the realm of speculation because of the uncertainty of the actual land that will be traded. I would point out that the third section simply indicates the kinds of resources that we know to exist in the trade areas. Where possible, we give an estimate of known coal reserves or known metallic deposits and so forth. In the other trade areas and in the Beluga-Capps trade area, our estimate is that we are dealing with a total of 895 million known short tons of coal. So that in terms of the total trade, the State would be trading away a total of 895 short tons of known coal. In terms of hypothetical coal, and again the figure of hypothetical reserves are very speculative, we are probably talking about 50 billion tons would be our estimate. We have the figure before us that we would like to have clarified at some point and that is the range of figure for recoverable coal in the trade area which ranges between 4 and 17 billion tons. This was in a newspaper article. We have no idea how this particular figure was arrived at. Actually, when we look at the 50 billion total, hypothetical, we are

not really talking about 50 billion because our estimates for the hypothetical reserves, for example in the Kenai Peninsula includes the entire Kenai Peninsula and we are not including specific townships (IA) in consideration. Just for your information, in comparison to the total hypothetical coals in the State reported by McGee and Oakland File at 51, we're probably talking about 4 trillion short tons of coals.

Sen. Poland: Thank you very much. Are there further questions from (IA)

: Mr. Shaff, could we determine our known likely oil and gas reserves in this area?

Shaff: The report speaks to that very briefly. In the Beluga, as you know, there is a potential for oil and gas inasmuch as we're dealing with a similar geological formation. We do not have any direct evidence that oil and gas exists. We can speak of the potential.

Sen. Poland: Senator (IA)

: I wasn't quite clear on what you mentioned about the mental health land; are they involved in this to any degree?

Shaff: We have... mental health lands are not involved in the trade. I did mention the mental health lands because we do have a known reserve in the mental health lands at 1.6 billion tons. That is not included in the figure that I gave you for the trade area in the Beluga region.

Smith: Just to summarize that, within the Beluga area, 75% of the known coal reserves remain with the State, approximately 25% of the known coal reserves would be available if selected by Cook Inlet.

Sen. Poland: (IA)

: Seventy-five per cent would remain with the State?

Smith: Would remain with the State, has nothing to do with the trade.

: You said that percentage of the known coal reserves. What percentage of what you're calling the hypothetical coal reserves would remain with the State and, of the reserves in that area, what percentage becomes(IA)?

Shaff: I don't have a hypothetical figure for the coal reserves in the mental health lands before me so I can't quickly calculate the percentage. We could do that when we put up - we have a map. . .

: Do you think it's about that same proportion or is it different?

Shaff: Well, he was speaking about the known.

: I know, but do you think that the hypothetical coal reserves, subject to check of your materials that it would even out backwards - same order of magnitude or proportion to (IA) or substantially different?

Shaff: I think staff is working that ou right now.

Doby: It's not an answer exactly but we can work that figure out for you. But if we take the hypothetical coal reserves in the entire Cook Inlet region, the State possesses a very large percentage of reserves. The estimates of reserves underneath the Cook Inlet which may be developed some day through liquification are extremely large - up in the trillions of tons. I think Mr. McGee can bear that out. The potential for the entire State is in excess of 5 trillion and again we could bear that out. The State has a huge coal potential in the hypothetical range and there is a lot of coal in the Cook Inlet region that is not involved in the trade. To answer your question, I think the percentage would probably be (IA).

Sen. Poland: Would you please identify yourself?

Doby: My name is Patrick Doby. I work for this gentleman here.

Smith: Pat is one of the authors of the report in front of you.

: Are you determining that because there no doubt will be people here who will testify that what you're calling hypothetical coal reserves may be a little more than hypothetical so any representations you make as to what proportion you think is in or out of the land that is subject to the trade would be important to both what you're calling hypothetical reserves as it would be for what you're calling proven or known.

Sen. Poland: (IA) Representative Cotten.

Rep. Cotten: Mr. Smith, although probably "threat" wasn't the best word to use in - anytime I hear the subject (IA) about what the Federal Government might do. But it seems that the possiblity of another Frizzel type offer occurring, that the State does nothing. The evidence of that, it seems to me, to be a - threat maybe is a little bit too large a term - but perhaps you might address your attendant to, in the rest of the testimony, go over what the status of such lands like the Swanson oil fields, the Campbell tract, Point Campbell out there - what would be the status of those if the trade doesn't go through?

Smith: First of all, I would like to say that when I alluded before to the term "threat", I was tying it more to the wording that occurred in that particular article which said that no other lands would be transferred to the State, as though they were refusing to transfer our statehood entitlement because of this and that's what I was trying to say - that that is not the case at all. With respect to the point you raise now, taking heed of your term that maybe we shouldn't use the word threat but being in the realm of that ballpark, the U.S. Congress has said that they will seek an equitable solution to the Cook Inlet problem. They are aware of what the Secretary offered to Cook Inlet at one point, the quote 'Frizzel' offer. And this of course is what, last year, approximately a year ago, the Cook Inlet region approached Congress to implement, was that offer. And if Congress does - if the trade does not go through and Congress does decide that they are going to legislate a settlement, it's hard to say - our Congressional delegation which asked the State initially to become involved, is aware, I think, that Congress is serious when they say that. I think our delegation would indicate that they do feel that the settlement might not be at all in the State's best

interest. With respect to the particular aspect that you're talking about now, the Swanson River oil revenues, the park lands out here in the Campbell airstrip area, it's very hard to say. I do feel that the State would put up a tremendous hue and cry concerning the oil revenues in the Swanson River. The question about whether or not the delegations would feel that or whether or not they could hold that line in Congress, that's a discretionary judgement. I should say a subjective judgement on various peoples parts. We do know that it was offered. We do know, since the State gets 90% of those revenues anyway, they're not of particular interest or significance to the Secretary because he doesn't get them one way or the other. With respect to the land within the Anchorage Bowl, Section 22-L of the Claims Act says that in implementing the Claims Act the Sectretary would not be able to allow any native corporation to get title to federal land within two miles of a first class city. Now, in the agreement in front of you, Congress has waived that right. So even though we're talking about what happens if the agreement doesn't go through, Congress has already indicated that it does not feel that that protection, you might say, for municipality is sacrosanct. They have already waived it once. Of the three areas about a third of the Campbell tract is outside that two mile limit as it existed in 1971 anyway. And I believe Pt. Campbell is completely out and I'm pretty sure that the approximately 255 acres of Pt. Woronzof is also out, certainly it is right on the edge. Now again, how Congress will review those, I don't know. They might decide to protect one and allow the other to be part of an agreement. It's very hard to say. I think it is fair to say that Congress did indicate that if the State decided not to participate in the agreement, which they fully realize is within the States' rights, the State has come into this on their own, that Congress has asked that those lands not be transferred, to leave its options open. And again, that could be read on the face for face value for what you think they meant by indicating that. But it is their land over which they do have control.

: (IA) I understood you to say at the previous meeting that the Frizzel offer wasn't withdrawn?

Smith: The Frizzel offer was withdrawn before Cook Inlet did select it, that's true. I just indicate again, it was an offer that we feel on its face was valid at the time.

Sen. Poland: (IA)

: What is the status then right now of, for instance the Campbell tract? You say that they waived that provision for this agreement but if this agreement doesn't go through, then the Campbell tract really wouldn't be eligible for selection by CIRC.

Smith: If the agreement did not go through, it is my assumption that the Secretary will still be bound by Section 22-L. If Congress decides to legislate some settlement, they can do what they want with that restraint. They can allow it to stand or get rid of it. The Secretary would not be able to go around that constraint however. Although as I say, approximately 1/3 of Campbell airstrip, the Campbell tract itself is outside that two mile limit.

Sen. Poland: Senator Orsini.

Sen. Orsini: Part of the study on the economic end of the study involved the use of probabilities of certain lawsuits either taking place or not taking place. Who estimated the probabilities?

Smith: It's a result of a number of discussions. Again, that is something which you could call subjective on any one individual's part. But when you bat these around, you come out with a figure. I guess I was the person who ultimately nailed down the final probability on it.

Sen. Orsini: (IA) consultation with a number of attorneys who will be familiar with the cases, discuss the matter and in your opinion that the different viewpoints that these were the average or most likely (IA)?

Smith: More or less. For instance, with respect to one as an example, the Cook Inlet appeal in court - some counsel has said that the appeal might probably have a little bit less than fifty. Other people who - not necessarily directly counseled here but who have probably a darn good background of what happened in the State and would be knowledgeable - say that it might be as high as, and might even be 70% for that specific aspect of the analysis. So it's hard to say. I think people could generally say that the appeal Cook Inlet has lodged with the Court of Appeals is certainly stronger than their initial District Court appeal. Most people think that it's got a stronger possiblity than they had on the first go around.

Sen. Poland: (IA)

Smith: Excuse me Madam Chairman, can I - I would like to add to that. As an early part of this negotiation, something which has fallen out now because the time has changed, the State was offering half a township to each of the villages of Salmantof and Alexander Creek if they dropped their appeals to become villages. A lot of people including a number of attorneys felt that the State was out of their mind because there was no way those two villages were going to win their suit. Those two are now villages. They have selected tremendous amounts of land including State mental health land around Salamator. Alexander Creek has selected land that under the terms of this agreement would come to the State, so it came right out of the State part of what we would have gotten from the agreement. And yet a good deal of counsel and expertise said that they would not do it. They are now villages. So my point is, to emphasize that it's a subjective situation.

: You were giving us some figures on royalty, that figured on present royalty?

Shaff: The numbers that I gave you were based upon two assumptions; that they would continue with the present royalty until the year 1991 at 10¢ per ton. After that the study includes three possible royalties anticipating that the State perhaps -I wish to change its royalty policy and a fixed dollar amount per ton, you would fix dollar per (IA) a ton of coal. We used the package three royalties, 1/3 royalty or 33 and a third percent or 1/8 (IA) 1991 to the year 2025 would change the scenario to a royalty fixed on the cost of coal as best we could estimate the cost of coal in 1991. And we used the Bureau of Mines figures for that estimate.

: (IA)

Shaff: Our agreements were, or our discussions and work in the survey started sometime in October. I can't be more specific now on the date than October, 1975.

Sen. Poland: (IA)

: What is this ten cents per ton based on (IA) picked out of the air or based on some rational process or how is it arrived at?

Schaff: The ten cents per ton is the present State policy for the royalty to be received per ton of coal. But where that ten cents came from, I can't answer that question.

: Since time immemorial or is that something more recent or . . .(IA)

Smith: The ten cents per ton figure is a figure which is put into the initial prospecting permit when an applicant asks for a right to go out and explore on State lands. In the cases of most of the major leases in the Beluga area, the value is ten cents a ton. These leases were taken - or this prospecting permits were taken to lease in approximately 1971 in the case of the land trade area; 1972 in the case of other State lands in that area. Which means the prospecting permits themselves were issued say about 1969. At that time, ten cents a ton was a figure that was arrived at within the leasing section of the Division of Lands as an appropriate return to the State. Right now, current prospecting permits, as an example, carry a value of thirty cents per ton. In both cases these are fixed values and one of the results of the report in front of you, one of the recommendations is that setting a fixed value for a period of twenty years is the case, is probably not the best idea particularly in a time of inflation as we're faced with now. I think, as a result of this we can look to a change in this in the future. Because as was queried a moment ago concerning what happens to our economic analysis after 1991 - we hypothesize in the analysis that we would go to a percentage royalty basis, a percent of the actual coal and that would be a much better return, probably, to the State as a royalty on simply because as the price of coals goes up the State would rise with it. We would take a bit more of the risk but we would share in those profits. I might add with respect to that assumption in here, that assumption increases tremendously with some dubious legal status the totals that the State would be trading away in this case. In other words, we have no reason to believe that the leasee would actually allow the State to change to this more favorable status at that time. They have a lease which says that certain cents per ton and they would probably argue very strongly to keep it. So another reason why this assumption is a very liberal assumption for coming up with totals of the value of that royalty to the State, in this case ....

: (IA) leases of this whole area is involved in (IA) What do you think is implied (IA)

Smith: Under the terms of the lease, as they stand now, they can be renegotiated, or not renegotiated. They will be reappraised after a period of twenty years which would be 1991 in the leases involved here. The lease itself would extend as long as the person pays their lease fees and essentially maintains within the framework of requirements.

: What happens to the Cook Inlet Regional Corporation when they take over this land, they take over the leases too (IA) then they will get to use (IA) ten cents a ton or what happens (IA)?

Smith: If the trade was consumated, Cook Inlet would receive title to the surface and subsurface resources in the area and that would include administration of the lease. They would be bound by the terms and conditions of the lease. If any coals were mined before 1991, Cook Inlet would receive the ten cents a ton. If any coal was mined after that, that would be on the basis of whatever the reappraised value would be under the reappraisal clause.

: (IA) exact definition to the State (IA)

Smith: That's true. As Senator Rodey observed on Wednesday, in a way the State is giving away what we now look at as kind of some poor bargaining in the past as far as fixed royalty rate perhaps or just giving this on to Cook Inlet and they are going to have to worry about the problems that they would have there. We're still going to have the same problems on the three quarters that we retain now.

: Has your department projected the earliest possible development date for the reserves that exist there (IA)

Shaff: Yes. (IA) report we've made some assumptions as to when production might begin and make preparations. (IA) If I can find (IA) I could tell you. We took three scenarios for that (IA) and the most optimistic would be that in 1981 production would start in the trade area of the Beluga (IA) at one million tons per year. And the most pessimistic would be that no production would start until 1990 at half a million short tons per year. The rates of production were geared to accumulative production at the end of fifty years of a hundred and fifty million tons in the pessimistic case and 891 million accumulative production in the optimistic case presuming a production of 21 million tons per year - shows that twentyone million tons per year as it was cited in a report by Stanford Research Institute. However, production rate of 21 million tons per year is almost three times the annual production rate of the largest coal producer in the United States. The (IA) Mine produces about 7.4 million tons. So our optimistic rate of production is about three times as optimistic (IA) is not.

: What sort of date would be necessary for full production by 1981?

Shaff: I'm sorry, I don't understand the question?

: If we're going to have coal produced by 1981, then we're going to have to start at...

Shaff: I would assume that they would start with their planning now.

: Now?

Shaff: Now.

: Next week? Last week?

Shaff: Right. Our optimistic is that it would take approximately 6 years, or 5

years to get coal producers...

Smith: I would like to add...

Shaff: These are somewhat arbitrary figures, difficult to (IA) available, etc.

Smith: I would like to add something to that briefly. Two points; one, in the optimistic case we also assume that there are approximately 400 million more tons of coal over there than we know today. We are not quite doubling, but I think it's an increase from 570 to 891 of over 400. It must be about 80% more over there than we actually know under that scenerio. Again, another temendous assumption, which is just that, very optimistic. But, I would like to indicate that this also, the whole report, makes the assumption that the Capps Glacier area, the know coal reserves that would be transferred under the proposal, would be developed first. I think that most people would agree that that will not be the case. The 3/4ths of the known resources that are within the mental health lands that would stay with the State, will most probably be developed first. It's interesting that the same company that holds the Capps lease also holds a major portion of the coal reserves that will remain on State land and one of their early and most prominant concerns in talking with the State on this, was that they might have to develop the Capps Glacier before the other, the Chuitna field, that would stay with the State, because they are looking at developing the Chuitna fields first and, therefore, every year that development of the Capps Glacier is put off, the present, lost value to the State under the terms of the trade, of course, decreases.

: I understand half (IA) coal (IA) the hypothetical problems that are coming up. You're estimating up to 80% of how much coal is there (IA) 25 million to 42 million. The spread is fantastic (IA).

Smith: Well, that's one of the risks they're taking. They personally are not, I don't believe, looking at that as the crown jewels in the trade at all.

: We have a right to look with suspicion when you're talking about those (IA) involved in this decision here. (IA) hard money figures that are given to us about what values are represented (IA) in this trade. We simply don't know.

Smith: That's a very good theme, I think, that's running through it and what we're trying to present in here are the best ideas on the various scenarios by State experts. Cook Inlet, I believe, values the lands even lower than the State does from the standpoint of the mineral rights.

: One more thing, has anybody from our State people (IA) federal people (IA) looked at this with a better eye than the State has?

Smith: There are other people that have looked at it. I'm sure that they will be before you before the end of your meeting here. As to whether they've looked at it with better eyes than the State, I would withhold that. I would be biased on that question. I think, I can say that nobody has looked specifically at this area particularly recently in trying to analyze the aspects of the trade. But what you have are, as I say from the standpoint of the State's experts, is the best information we can come up with.

: (IA) optimistic assumption for production in 1981. What did you assume to be the use of the coal there (IA) typical or what? (IA)

: (IA) for export not power generation (IA)

: Japanese export or what?

: Probably.

: (IA)

: You have to make an assumption that there's a market for it (IA) what the assumption was.

Doby: (IA) the assumptions actually made were a pessimistic assumption that the coal would not be exported - that was the pessimistic. The first thing that was assumed, that the real pessimistic is zero production, nothing ever happens, which is possible. A catastrophe could arise that we would have no production. We said, or I said, that the pessimistic assusmption, and this has been realized by some other people at least in your minds, that the coal would be produced for internal use primarily for electric generation and this type of thing and that's the low end.

Then taking the optimistic, this is the second optimistic, I have a previous calculation that's about half of this much and I talked to a number of people and the technique was to call mines and a number of people and say, 'how quick can you actually come to production?' I keep asking people. And then, 'what do you think the market will be?' and that's a big question. The assumption here is that somebody can absorb 21 million tons a year of our coal which is a tremendous amount of coal. And that's why it's extremely optimistic - if it has to be exported, most likely Japan and the western United States, and that's assuming the western United States isn't going to go ahead and do what they're trying to do and that's produce a lot of coal. So, I think I mentioned in the report that it's very optimistic - it's just about as far out as we can possibly get and the reason for that is that this is probably the best discounted income we could expect to get for the State. I used a 1/6 royalty. I just negotiated what I thought was the best deal we could possibly make and produce a heck of a lot of coal for the whole world as fast as I could do it and that's about what it is. You come down from that a heck of a lot but those numbers, from the people I talked to and it's just plain reason or as much money as they could see (IA)

(IA)

Doby: Thank you.

Sen. Poland: Senator (IA)

: It's my understanding the legislation pending before Congress embodied the transfer of Swanson River fields as well as Anchorage (IA) lands to Cook Inlet (IA). Is that correct?

Smith: If you're talking about the legislation that was proposed to talk about last spring, in other words the old Frizzel offer which was there - that did

include all the things, whether it's pending before Congress, I would say that that's back burner now since we've all come up with a proposal as something that we all felt we could live with. I don't know if it is in Congress, exactly where it is. I would assume it would still be in sub-committee, probably House sub-committee.

: Both houses by Congressman Meeds and Senator Jackson respectively. And sponsored in...

: Certainly in the House by Congressman Meeds. I cannot say for sure in the Senate who it was. Cook Inlet Region might be able to help you with that question.

: It's also my understanding that gentlemen in the various houses have recourse to input (IA) legislature and have they (IA) to push the legislation through and some reasonable settlement of (IA) might be (IA)

Smith: I think that's a pretty set conclusion. Congressman Meeds felt he wanted a 13th regional corporation over some considerable opposition from both the natives of Alaska and others and he got a 13th regional corporation. Senator Jackson, I don't feel I have to say about his power in the Senate.

: (IA) capable that the State must do something to negotiate a settlement that will prevent the transfer of the Swanson River fields which brings (IA) revenue to the State, (IA) Anchorage (IA) prevent (IA) I don't know whether it raised the proper word uses (IA) Point out it seems that they have a considerable hold on much of our natural resources and something has to be done even discounting the possibility of (IA)

Smith: Again I, that's what I meant when I alluded at the outset to the alternatives we're faced with and I concur again. It's hard to say that Congress, in fact, if someone were to ask me, I would say that Congress would probably not pass the Frizzel offer as such because it would impact the State and I'm sure that the Congressional delegation would be out there running interference but they can just throw so many blocks and my point is, I think we could safely say that there would definitely be some aspects of any settlement which would not be in the State's interests. You mentioned a couple of them that the State might protect but they can't protect all of them is what I'm saying.

(IA)

Sen. Poland: Senator (IA)

: Most of what you've talked about so far in regard to the Cook Inlet lands that are proposed to be traded under this three-way trade to the Cook Inlet Regional Corporation, what about the other lands that the State would be getting in exchange - what do you have to say about those? I know that they're not only mentioned in the material (IA) reports but if you're going to give a capsule summary of one part of it, you should give a capsule summary of the other part.

Shaff: I can't. I would have to walk through the report and respond in terms of each area we're talking about and give you a (IA) areas of the State.

: We're talking in terms of value in dollars for various purposes - what kind of comments in regard to the (IA) you might (IA)

Shaff: Very few because in those areas we're talking mainly about resource potential rather than resource value. And in the case of the Beluga fields we have known coals and in certain other areas, for instance the Matanusak and so forth, some known coals, so we can speak a little more specifically. In terms of some of the other areas of the State will receive, we're in geological no-man's land essentially (IA) in regard to certain types (IA) problems (IA) proper subject. So that, there is not too much I can say about those lands.

Smith: I think one of the reasons on that is that, with respect to the Beluga area, we're talking about coal which is found usually in, if it's of importance at all, in some type of thick beds in one area and because of the nature of our leasing requirements, before they are leased, we have a good handle on what's there. Secondly, the State does get royalty from coal. If we were able, in some way, to have the prescience to know exactly what minerals were on the land the State was getting, we could put a dollar value on their value. The State gets nothing. We have no royalty, we have no severance tax on those minerals right now so even if we knew what was there, as far as the value, it's kind of unfair because we do not have a royalty or a severance on those minerals where we do on the situation with coal.

Sen. Poland: (IA)

Smith: Well, this was all we had in the way of prepared text because of the request by the Committee that we limit our initial presentation to within half an hour subject from then on afterwards to questioning. We have other members available here pursuant to your request as Mr. Shaff indicated, members of the Geological survey staff and if you have any particular questions to ask, I would feel that as you feel it appropriate to ask, we could then refer the questions to the proper individuals.

: (IA) economics value tables, as I recall (IA) two rates of discount (IA)

Smith: That's correct

: Which of those (IA)?

Smith: I believe it's the 8%.

(IA)

: This is the December 6th memorandum?

Smith: Yes, my December 6th memorandum is based upon the 8% summary that's in this book which, of course, is less favorable to the State than the 10% discount and we ran into discount rates because some people discount higher than others. Industry generally discounts at a higher rate. We felt that 8% was more realistic with respect to what the State returns as an investment on. I should say gets as interest on its investments within the general fund.

(IA)

Smith: I'm not sure but it was certainly an in-the-ball-park figure that we felt more comfortable with than the 10%.

(IA)

Doby: It was the 8%, Mike and I have discussed this. In most cases we kept trying to favor value of the resource and this is a standard economic cash flow calculation and we kept trying to push the numbers - or I did - to look at the most optimistic return to the State because when you're looking at the 8 - so we used the 8% as being a pretty optimistic cash flow and 10% is probably a little bit high with respect to the way we discount or sometimes, with respect, with a State project I would like to discount at 10% - I would like to think we could do that well and I wish we could.

: What about (IA)?

Doby: Well, I'm not an economist and I couldn't tell you that. Probably more than 10%, I'm sure.

(IA)

Doby: I wouldn't know. Sorry, But I'll find out for you.

(IA)

Smith: I would like to interject here that that figure of 8%, as far as a discount rate, it's in the ball park but I think that we may have missed the point if we try to put it against what we're getting within our investment funds where the State has had its general fund monies, and one of the reasons being that a state operates not like a giant corporation. We, whatever we got for this, if somebody was paying us money based upon these, for those lands, or whatever, the State would probably not be putting it into an investment trust fund. The State has other requirements and duties to its citizens of railroads, schools, hospitals, what have you, so that is a return; the capacity of doing something now with that money, not necessarily just whipping it into a bank. But you have to refer that probably to Commissioner Warwick to get an idea what - I should say Commissioner Gallagher - to find out what we're receiving from investments.

(IA)

Rep. Brown: Thank you Madam Chairman. I was not able to attend the Senate Resources Committee hearing again in Juneau on some of this (IA) having (IA) issues (IA) I think still are (IA) but I'm a little perplexed about what exactly really is the Administration's position. Is the Administration's position right now that they are strongly urging us to approve or bless or whatever this particular land trade or are they saying that the Administration wishes not to take a position and wants the Legislature to decide one way or the other?

Smith: I think we can fairly safely say the Administration is definitely behind this bill. We have been in the process of negotiations for going on, or in excess

of, nine months right now and until about three days ago, as Senator Poland mentioned earlier, we had indicated that the Governor was going to consummate the trade and bind the State to the agreement on March 12, and let the Legislature indicate an action definitely one way or the other. That does not at all diminish the Administration's intent on fulfilling the terms of the agreement which we inititaled with the other two parties involved and the only reason we will not do it is if the Legislature votes it down since the only other alternative would be that they would confirm the trade.

Rep. Brown: You know, you really do change the ball game an awful lot when on Tuesday one week you're saying you're going to do what you're going to do unless the Legislature says no and now you're saying you're not going to do what you're going to do unless the Legislature says yes. There's alot of difference between sitting in the Legislature and doing absolutely nothing and passing a bill or a resolution and it seems to me, at least based upon press releases from the Governor's office and reports in the press the last two or three days, there has been a change in position and that now the Governor wants to be almost for something and if any decision is made, it has to be made by the Legislature and if there's anything wrong with the decision, even though it was all generated by the Administration, the Legislature is given a deadline of about three weeks, it's all the fault of the Legislature in the event there is a mistake.

Smith: No. On the contrary. I don't agree with that, Representative Brown.

Rep. Brown: It sure sounded like what the press release said.

Smith: Well, I'm sorry. Press releases aren't always the best method of getting information and I believe that that was the interpretation by the Associated Press which removes it once again from the horse's mouth. I think what is the main point which the Governor has said is that because of the on-going tracking we have done on this, on a legal basis, and because of the amount of effort involved and because of the very large significance of the trade, that we don't want to be in a position of having a trade occur after the Legislature has spent a large amount of time looking at the trade even should they decide under the first scenario not to do anything. We do not want to consummate it with it still what might be a legal could as to whether or not the authority existed. This, as you realize, is one of the reasons why the Governor indicated in the first place that he wished the Legislature to take a look at it indicating that we feel the authority is there.

Rep. Brown: In the first place, my understanding is that the Administration didn't intend the Legislature to take a look at it at all. As a matter of fact, in Legislative Council we were constantly in the situation that we thought we were going to be presented with fait accompli that had already been completely finished before we even began the Legislative session and it seems to me that now, at least the part that was supposed to be direct quotes from the Governor as opposed to a press release or a re-recording by John Greely, who is a relatively competent reporter, is that even in the direct quotes, the Governor was saying that 'I want you to give me the authority that my legal advisors have told me I don't need.'

Smith: To try to sum it up without getting into a political argument, I think the Governor has said, as he did three days ago, that we wish the Legislature to look

at the land trade and the values that it holds for the State, weigh that, look at the alternatives, and to vote up or down concerning it. And that if the Legislature votes up on it, that we are going to feel much more comfortable in consummating the trade with the other two parties than we would have, had the Legislature looked at it and just done nothing. And that, I think, was the purpose in the change of course.

Sen. Poland: (IA) Representative Brown and Mr. Smith, as you know when the Select Committee went to Juneau there was no indication that the Legislature would have any part of the action and we insisted on it and I was very happy that the Governor took the attitude that if he were in the Legislature, he would feel the same way about it. But he has switched horses in mid-stream here and left us in the position of, we must either take a positive action or fail. The other alternative, if we didn't do anything, it was going to go through so you can see where it does give us cause to take an extra look at this. I notice that, I believe it was Mr. Doby who said that he was figuring exports as a market for this coal. Now I realize that your department probably does not have a bunch of economists on hand to give us all the various types of figures but I can't help but wonder if you have taken into consideration if these were converted or used for other performance of (IA), if there were worries to get it out if we, a figure based on the oil equivalent by conversion, has there been any thought to any of this?

Smith: I'll defer those points to Mr. Doby. I will say that the array of possibilities of course, is quite large. It does not matter, under the terms of the scenarios, really what the use is if the use is there. If somebody's going to slurry it out and take it somewhere, if they're taking out 21 million tons a year, it's irrelevant as to what they're using it for as long as they're taking it out in the quantities and under the time tables shown in the chart here.

Sen. Poland: Well, for the next 20 - or since the 1971 leases, but after that there would certainly be a drastic change, wouldn't there - when they start renegotiating?

Doby: The optimistic scenario is the 21 million tons a year - was taken from the Stanford Research Institute study which assumes that the coals would be run through - they have two different studies, but that some type of electric or slurry process would be used. That high scenario, more or less, that could be in there. The market for that amount of barrel oil equivalent within our next period of time is probably not too good in the State because of our own indigenous oil and gas reserves and this type of thing. By assuming an export, it means that really there is a market for it and most people assume that we're an energy exporting State - that most of our energy is going to be exported. But really the use of coal probably will be barrel oil equivalent to some type of a slurry. A lot of people feel that's the way the coal will go out and we have within your report (IA) that we've handed out, we have the Stanford Research Institute report which discusses this type of conversion (IA)

Sen. Poland: We had requested that Mr. Cleveland Conwell of Fairbanks (IA)

Smith: Mr. Conwell is here if you have any questions for him.

Sen. Poland: I would like to have him, I know he's involved in a coal seminar that was held in Fairbanks this year and since this subject is directly involved in the trade lands, I would like to hear from Mr. Conwell.

Conwell: Can everybody hear me? I certainly will be glad to answer any questions. My name is Cleveland Conwell and I'm a State mining engineer.

Sen. Poland: Mr. Conwell, have you ever been asked to give an appraisal of the land involved in the trade?

Conwell: I was asked twice. Once about the 8th of October when I was with Mr. Smith and he asked me if there were substantial coal reserves in the area (IA) said there were and then again on the 31st of January I was asked to make a very quick appraisal of the (IA) valley appraisal that had been made for the Beluga fields.

Sen. Poland: Did the figures that you came up with agree basically with the figures in the report that has been presented to this Committee?

Conwell: I have some very defininte opinions of the report that was given. As far as mathematics, I'd say yes, I think they're correct. But there are other...

Sen. Poland: As far as reserves, what do you think?

Conwell: Well, I think it's a little bit misleading, yes. The report, to me, if I was reading it without the knowledge that perhaps I have of it, I would interpret the 10 cents per ton royalty as applying to the trade area. Actually we're talking about 10 cents per ton royalty on one specific lease that was granted in 1971 and that is only on 7,000 acres and that specifically says the approximately 550 million tons of proven reserve coal which was drilled and outlined by Amex Plastic Development Company. Of course, they are now working down in the Chalitna area. And, as Mr. Smith has already point out to you, in more recent times the royalty has been raised - I think he mentioned 30 cents a ton on any permits we would be doing and certainly we have the perogative, the Director of the Division of Lands, to increase that royalty.

Sen. Poland: Representative Brown.

Rep. Brown: What range of royalty is, what is the widest range from lowest to highest figure that's common or familiar to those people who know the coal business in the United States. I mean, is 10 cents nominal, is it kind of like a magic figure like that 12 and 1/2 over any royalty overtures over oil or is it low...?

Conwell: It's a low historic figure that was used, say, prior to 1969.

Rep. Brown: What other kinds of figures are used by the public, private landowners outside for royalty...?

Conwell: The state of Montana recently has raised their royalty to, I understand, 33%.

Rep. Brown: 33%?

Conwell: 33%. And that's your range. I mean, you were asking for a range (IA)

Rep. Brown: That's quite a wide range?

Conwell: It's quite a wide range.

Sen. Poland: Representative Beirne.

Rep. Beirne: Mr. Conwell, in your estimation what is the (IA) what time frame?

Conwell: Well, I don't think the time frame is so bad in this. Of course, Amex is working on it and they're spending a great deal of money but I think you have to sort of look at the political climate before development actually proceeds. Be sure who you're dealing with and then even if all those were settled, the time frame of actually getting the equipment on the ground, I don't think we would actually have a large scale mining - and I'm talking about 10 million tons or greater - in less than probably 6 years - I don't think we could do that. And I would say that 6 to 10 year time limit for a major operation is realistic.

Sen. Poland: Representative (IA)

: What would you think that climate was (IA)?

Conwell: Well, prime market today, I think, would be for export. I think the markets are there. Well, I know of two markets in the Pacific Northwest that each supply 4 millior tons per year now. There certainly is Japanese, have been looking for from 2 to 4 million ton a year markets. And certainly if you go to the coal conversion which is the Stanford Research, you're looking at 100 thousand barrels of oil per day and certainly that will be absorbed into the market with no problem.

Sen. Poland: Representative (IA).

: (IA) expiration? (IA)

Sen. Poland: Mr. Hackett, were you included when (IA) report that was prepared (IA)

Hackett: No ma'am.

(IA)

Hackett: Steve Hackett, exploration geophysicist for the Division of (IA) project for geophysical survey.

Sen. Poland: Are you, you're familiar with the figures that have been given here, do you basically agree with them, with the research that you've done in this field?

Hackett: The area, in a recent geophysical survey, indicates that the Beluga Basin area's quite a bit more complex than had been assumed previously. There is substantial evidence that indicates that here is quite a bit of tertiary sediment in the Beluga Basin north of the Casa mountain fault.

Sen. Poland: What does that mean?

Fishburger: Are you trying to tell me that there's a bunch of dirt that you hadn't planned on finding on top or coal that you thought you might take out sometime? You've got more problems than you thought you had?

Hackett: Right. I don't want to get into a technical discussion but kind of a summary is that the gravity and magnetics in the area indicate that there could be a substantial tertiary sediment which encloses the coal and possibly oil and gas resources within the area of discussion, the trade discussion.

Fishburger: I assume then that the natural question to follow that, is that the six year plan for (IA) production is possibly higher?

Hackett: That's completely out of my specialty, of my realm. I couldn't answer that.

Sen. Poland: Representative Brown.

Rep. Brown: Madam Chairman, following up on Mr. Fishburger's question, at least your statement that you've just given us right now, as far as you know, was not taking into account, or doesn't seem to be taking into account in the estimate study we're talking about here...

Hackett: I believe that this report refers specifically to a coal evaluation and it does mention oil and gas potential but the survery, as such, just used known geologic evidence. The areas that I work in are more in direct evidence of structure and basins and mineral accumulation and it's not, it's kind of an ambiguous science is what I'm trying to say and I don't know why it was not considered in the economic evaluation of the Beluga Basin. Other than that, I can't answer your question.

: I'd like to ask a question, if I could, of perhaps Mr. Hackett. Are you saying that the comment you just made in some way affects the known recoverable resources over there - that we know about.?

Hackett: Right. I think that there's quite a bit of evidence to indicate that there is oil and gas potencial in Beluga Basin area that has not been previously considered.

: That wasn't my question. Is what you're talking about affecting the 570 million figure that this report speaks of, of tons of known coals?

Hackett: Yes, it could.

: You mean, it could reduce it?

Hackett: It could make it greater. The basin outline in actual potential or possible thickness for Kenai coal group could be alot more than had previously been recognized.

: I don't seem to be able to get my question across. This is based on known coal. We're not talking about what may be out there; we're talking about what is

there today. Is what you're saying, if we only know that here's so much now, and you're hypothesizing there may be more, it does not mean that what we have put out here today is not correct as far as it goes.

Hackett: Correct...as far as the coal resources.

: Okay. That, I think, was important because that is not what I understood Representative Brown to ask.

Shaff: Could I attempt to clarify a little. I think what we're stumbling over a little bit is a matter of scale. We're talking about the Cook Inlet Basin that has been fairly well defined by aeromatics and gravity studies as well as several wells. Steve's work dealing primarily with aeromatic data and gravity data has recently indicated that the Beluga Basin seems to be of larger magnitude in terms of depth and Steve might want to predict that depth from these studies and this report of his in press and he has reported to the Society of Experimental Geophysicists this past fall. We're really talking about a bigger basin. Now, how does it affect the hypothetical reserves? Don correct me if I say this incorrectly, but hypothetical reserves are based at times on a depth of 2500 feet and at other times on doubling that figure. So, in a sense it does mean in terms of the coals, that here may be more coal in the Beluga Basin simply because the basin's bigger than we thought it was. But in terms of the hypothetical reserves and our estimation, it may not have that much effect. So, it's sort of a yes and no answer but it's really a matter of scale, I think, that we're talking about.

Sen. Poland: Representative Smith.

Rep. Smith: I'm having trouble following this tale. Sometimes we're talking about the Beluga Basin and sometimes the Kenai Basin and (IA) differentiate that from (IA) specifically the area he's talking about. (IA)

Shaff: We came loaded with maps.

(IA)

Hackett: The area in question outlines, first of all, the Beluga Basin is on the west side of Cook Inlet, water bound by the (IA) faults cuts across the west side of Cook Inlet and around by Mt. Susitna here, Mt. Beluga, and Mt. (IA) here and (IA) Basin bound by faults and the black dot here represents (IA) myself with a survey a couple of summers ago and (IA) help outline the basin. The trade lands per se that we were talking about are right here in Beluga Lake and what is indicated from summary survey is that it was previously believed that the basin north, northwest of the Beluga (IA) fault was quite shallow, in other words, less than 2000 feet of tertiary sediment and both gravity and magnetic data indicate that there is a 6th section involved possibly up to 7500 feet of tertiary sediment sitting over (IA) right through here and Lake Beluga and in summary to just indicate the technology previously suspected and there is a lot of various potential, I think, just a larger basin than previously recognized. Does that help answer or clarify in very generalized terms.

: What does (IA) on the map?

Hackett: Kenai (IA) Anchorage is right here Bar Island, (IA) Island, this area right here, Beluga Basin is about 600 square miles, it covers about 600 square miles of the tertiary basin per se.

: Where's (IA) go on that map?

Hackett: It's right here.

: You said that an area (IA) in the middle of that is one of the areas that is the subject of the trade that is proposed, is that right?

Hackett: (IA) trade is sitting in the middle of the basin.

: I'm trying to spin my head back and forth and look here and there and back again.

Hackett: This yellow outline here is outlined on this gravity (IA). Recent production, oil and gas production, is associated right here (IA) bay. Right in here, Cook Inlet Basin is defined by this gravity low right here.

: If (IA) basin is larger than you thought it was, how does that, only a portion of the basin apparently is involved in the proposed trade...to what extent does that change the assumptions that have been used by those who have looked at the trade lands and estimated their value?

: On that question, I think the analysis of the coal subject based on the upper 2000 feet of sediment, in other words, that was considered to be economically feasible to mine. The point being that (IA) there is also oil and gas potential in the area nd also the basin covers a larger area (IA) than previously considered.

: You mean within the trade area, is that right?

: The trade area is still the same (IA) I don't believe I can answer your question.

Smith: Mr. Chairman, I believe that Mr. Doby would like to add a comment.

Doby: Let me put on a couple of different hats. This is my geophysicist hat. I am a geophysicist by trade so I understand a little bit about gravity and then I'll also put on my chief petroleum geologist's hat. But first I'll put the geophysicist hat on. I've got a coal hat sticking out here too so if I get confused, you'll know what's going on. I just talked to Mr. McGee and within the value of the coal in the geographic area of the trade, there's different assumptions, but with the economics we're looking at, we're assuming about 500 feet for strip mining and we're looking at strip mining, really, for economic reasons for this quantity of coal, producing this coal within 500 feet and certainly the deepest is 2000. Now, the gravity can tell you the thickness of a particular section of rock and we're talking about sedimentary rock of tertiary age, which is young, and what we find in the coal in here. Now, Mr. McGee had a report of '74 which calculated that coal underneath the water of Cook Inlet, we had 15 or 20,000 feet of the same kind of rock and we had trillions of tons of coal in it. But with respect to this particular trade, the actual thickness, whatever gravity, the variation of thickness

in terms of the trade doesn't really have a bearing because we're only mining the upper, economically feasible part of it - that's the coal. To answer your question, except for the edges, (IA) 50 foot on the edge, we don't know, but I mean, except for the edges as the basin increases, it shouldn't have much bearing if we add another 5000 foot because the calculations then, within this period of time, 50 years, we can only mine so much coal at a strip mining rate as fast as we can get it out if the market will take it. Now, the oil and gas, I have nothing - anybody can take their best guess at the value of the oil and gas there. It's been there a long time - there's quite a bit of information (IA) from whatever else, I can't answer that. Generally, I can say is, again as a chief petroleum geologist, the relative value of that land - it hasn't been exactly very high in the past. I mean, there could be oil any where out there but we simply haven't seen much activity, much discoveries, much luck and data doesn't indicate that it's what we would call high potential petroleum land and has not been rated as such by ourselves.

(IA)

: Question for Mr. (IA)

Sen. Poland: Representative Rhode.

Rep. Rhode: In other words, if you've got, let's say the coal ceiling was 10,000 feet deep, it doesn't mean anything, say, below 2500 anyway (IA) we mine it.

Doby: Pretty much in the future. The problem is we're looking at here, primarily at this time, strip mining, scraping it off to get to it, because we've got to have high volume production to equate the transportation costs and the costs of mining it here and with that type of production, of course, the deeper you get, the higher your costs and frankly, most people I've, at least according to Mr. McGee, you're looking at 500 feet for the economic projections we have. We're looking at economically mining the shallower coals now. Sometime far off in the future it's possible that deeper coals might become economic someday but it's always tough up here to think about, of that potential (IA)

Rep. Rhode: One more question: coming back to this ten cents a ton oil lease, then, the determination of the ten cents could easily be based on the, say, the feasibility of getting the coal out, would it not be that near salt water were easy to mine, the royalty would be, say, ten cents or way up in, say, the coal country or something (IA) it really wouldn't be worth anything, would it?

Doby: That's true. Actually, the paragraph in the report, the whole principle of assigning a constant monetary value for a royalty, like 10 cents, just is not done anymore because of inflation. We're living in an inflationary world and I discount that 10 cents, that dime, at the end of ten years is worth a penny or two and the rate royalty, a percentage royalty like we have on oil and gas of 12 1/2%, but this you take a little bit of money and you pay a little bit of money and that's...the ten cents a ton is just, I said it in there, is just not very darn good, it just stinks, to be quite frank. And I hope that we don't use that type of approach anymore.

Sen. Poland: Representative (IA)

: Who did you say you work for again?

Hackett: I work for the Geological/Geophysical Survey.

: That's the State?

Hackett: Right. It's part of Natural Resources.

: Do you agree with Mr. Doby's assessment of the possible future production of oil and gas in the specified area there?

Hackett (IA) previously, these statements right here other than all the wells, all the deep wells that are around the (IA) Lake faults or (IA) in that area so the only deep control we have in Cook Inlet Basin is out of Beluga, the basin per se. These new gravity stations here, (IA) this helps to find the gravity field in the area and very strong (IA) this area has been overlooked by companies and by the State as possible petroleum (IA).

: So you disagree then?

Hackett: Right. I think that the reason why there hasn't been any interest here before, we had no data to, or (IA) of the area other than the activity down where Paul Gaston was.

: You just did this, these gravity studies and so forth last summer?

Hackett: Summer before last. The project (IA). So, I don't disagree with Pat's conclusions there, other than this evidence indicated that there is additional possibilities that have never been recognized before (IA)

: You completed your analysis much more recently than the time that you did the survey(IA)

Hackett: No, this analysis has been in preliminary form but, to my knowledge, it was in our division since last year. I gave a talk in Denver in October summarizing the study (IA) exploration (IA)

: Mr. Hackett, do you have anyway of determining the potential for oil and gas?

Hackett: The only way that this type of data can be expanded (IA) drilling and the same thing with any other speculations, coal (IA), the only way that we can really get a grip on any analysis of the Beluga land trade is to actually get in there and (IA) what's there. A lot of the tools that we use for surface geology and a lot of geophysical/physical properties to project what's there, the only reality we could (IA) from drilling.

: Thank you very much.

Sen. Poland: Excuse me, Representative Smith had another question.

Rep. Smith: For Mike Smith. Mike, do you know offhand if any of this land is under oil and gas lease at present?

Smith: I'd have to defer that. I believe my mineral leasing officer, Detro Denton, is here at the moment. I believe that most of the area of interest is, as was just indicated, much more coastally oriented in the areas where we have the two known existing fields, the Nicholia and the Beluga gas field, but I'll have to check.

Sen. Poland: (IA) anyway, would you come forward please? Representative Smith had a question here?

Rep. Smith: Is this area under oil and gas lease now?

(IA)

Denton: I'm Detro Denton with the State Division of Lands. I'm not sure. I believe that a part of it is. I expect some mixed status. We've had a lot of leases terminate in that area recently. Expiring or terminating. I haven't looked at it with that in mind so I can't be sure.

Sen. Poland: Mr. Denton. were you involved in the firming up of the, I realize you're not involved in the policies, but were you brought into the discussions on this land trade?

Denton: In a very limited way.

Sen. Poland: Were you in from the beginning?

Denton: The first contact I had with, was at about the time the proposal was made public, a few weeks before that.

Sen. Poland: Do you see any problem in the difference of management between the State or private ownership?

Denton: You mean as far as the development of the resource goes?

Sen. Poland: Yes sir.

Denton: Yes. It's always easier and better if you have the land under one management.

Sen. Poland: And part of these leases would be under the State, those that are not involved in the land trade, and the other part would be under a private corporation with the set-up that we have right now if this trade were consummated.

Denton: Yes ma'am.

Sen. Poland: Are there any further questions? Representative Beirne?

Rep. Beirne: You mentioned that several of the leases were terminated. Is there - part of the termination is because they realize that (IA) region potential is not there and would feel at this time, this is a second question, we know more or less about potential leases than at the time those leases were (IA)?

Denton: Now we're speaking of the oil and gas leases terminating?

Rep. Beirne: Right.

Denton: I would say we know more but leases terminate under a variety of circumstances; one is that they abandon them, another is that their time runs out and they haven't got everything put together to spend the money to explore them, and it's a common practice in the areas that are being explored in the State now, this is something that happens all the time, is re-leased and re-leased and...

Rep. Beirne: (IA) they are (IA) to re-lease them, that's correct? (IA)

Denton: Yes ma'am.

Sen. Poland: Representative Rhode?

Rep. Rhode: That was my question, thank you.

Sen. Poland: Thank you, Mr. Denton. I would also like to hear from Mr. McGee who was, as I understand, was one of the authors of the book.

McGee: My name is Don McGee. I'm a member of the State Division of Geological/Geophysical Survey. Mr. Ross is my boss here.

Sen. Poland: You were, as I understand it, Mr. McGee, also working on the report that was prepared and presented to the Legislators with regards to the reserve?

McGee: Yes ma'am.

Sen. Poland: Were you involved in the negotiating, not the policy, but again, the preparation for the negotiations of the land trade?

McGee: Yes.

Sen. Poland: Early on or...?

McGee: In October, just before the announcement to the public in the newspapers.

Sen. Poland: And you, I take it, agree with the figures that are in the book - do you feel that they are a complete picture, that we're in a position to make profit judgements is this one of the things (IA)?

McGee: Yes. I think the figures are probably as accurate as we can make them (IA). Again, I want to emphasize that when we talk about known coals, we're talking about coal that has a high probability of being there. Hypothetical coals may have a plus or minus value maybe as much as 50 or even 75% - the best guess we have based on our present knowledge.

Sen. Poland: Representative Smith.

Rep. Smith: I have a problem with this scale still, Don. When we talk about the known reserve, I assume they're in the area that's pretty well defined here. Does that same hold true for hypothetical reserves, that when you find a hypothetical value, do you look at a whole valley or...?

McGee: No sir. The hypothetical value, as we mentioned here, are those values

within that area.

Rep Smith: Roughly within the area outlined by yellow here or...?

McGee: Yes, within the area we're talking about, the land trade area. If we go outside the area, we get much larger hypothetical reserves, much more area's involved.

Sen. Poland: Are there any further questions? Mr. Smith?

Smith: I have a question, I might, or a couple, I might ask Mr. McGee while he's here to bring out for the Committee, particularly as alluded to earlier by Mr. Shaff on some of the reports we've seen floating around in the papers concerning the various amounts of coal to be found and Mr. McGee, I know, is aware of some of these and I would like to ask, without getting into specifics, but do you feel that, your estimates as published in this report here, that, say, some of the amounts of coal and tonnages that have been quoted in the newpapers, do you feel that these have reasonable bases on which to use estimates following the work that you've done, this type of work in that area?

McGee: This is terminology. In the paper, the tonnages mentioned were mentioned as recoverable coal; I don't know what the word recoverable means. To me, it means what I would call known coals, coals we can extract within a reasonable economic picture. Hypothetical coals may, at some time in the future, become known coals for reason of drilling 17 (IA) and etc. But at the present time, they're not what I consider recoverable coal. So we're talking about two different things; we're talking about the coal (IA) and the coal that may be there.

Sen. Poland: And you feel these figures, there may be a combination of the two?

McGee: (IA)

Sen. Poland: Recoverable. Do you feel those were put forth and that they're a combination of (IA)?

McGee: I think they're too high to be called recoverable coal. They may become a hypothetical and a known coal (IA) combination (IA)

Sen. Poland: Representative Brown.

Rep. Brown: Thank you, Madam Chairman. Smith, when did you first become involved in the subject at hand?

Smith: The subject being?

Rep. Brown: The entire subject, the subject of the land trade. When were you first directly involved in discussions relating to it and what land would be included or not included?

Smith: I would say just about a year ago, almost to today.

Rep. Brown: And how would other people within your division answer that question. Mr. McGee has just said that he became involved shortly before the matter got into

public press in October and at least another member of that same division said the same thing. How many members of your division were involved in these discussions?

Smith: Well, you mean involved in the actual discussions with the three parties?

Rep. Brown: Or participating, whether they were participating as advisors of the represented the State or whatever.

Smith: Oh, at one time or another, I would say there were several people involved. As to when, most intense, I say intense when we really began under the initial congressional deadline of approximately mid to late May, there were people involved, discussed at various lengths, not in any great detail, but it would include the staff, with (IA) backgrounds. I had talked to Mr. Denton on one or two occasions, again, not in great detail. Whatever other resources we have, our land people, our planning department.

Rep. Brown: It just seems very strange to me, we've already had two people with quite a lot of expertise who work for the State say that they did not become involved in these matters until a matter of just a couple of weeks before it got to the public press. Now, the way I interpret that, you know, I can only interpret this is that a policy decision was made first and the defense of the policy decision was put together afterwards including getting all the technical support. At least, that's certainly what it sounds like.

Smith: I couldn't agree with you more, Mr. Brown. If you have taken the time to read some of the information that I believe was passed on to you by the Governor, you would have seen that the final decision to go on this was not made until sometime after the 6th of December and...

Rep. Brown: That certainly was not the way we heard it on Legislative council.

Smith: Well, I don't know how you heard it in Legislative council. Since the State did not enter into any agreements until after the 6th of December, I don't see how you could feel... I would like to explore that, there seems to be some problem here. I'd be very happy if somebody would show me where the Administration committed itself with respect to the land trade until early December in Washington.

Sen. Poland: I think you're playing with semantics. It was published on about (IA) 29th of September and announced a public hearing on the 3rd of October and when we went down there, Representative Smith and Senator Rader...

: That was November, wasn't it?

Sen. Poland: Early part of November and...

Smith: May I ask...

(tape three)

Smith: ...when the decision was made. Now, I think it's very obvious that the proposal which we have right here today that was made public on the 1st of October,

is very, very different from the agreement that was finally negotiated and agreed to in Washington D.C. I will stand up and say that the Legislative Committee, Select Committee, of which you are a member, was told at that time that some very significant changes had been made pursuant to the public announcement and public presentation in early October, which, of course, was a specific reason why the Administration went public, was to get the information and the ideas of the public. The memo transmittal said, dated December 6, lays out in two or three pages what that public input was and precisely how the agreement document was changed. Among other things, the six townships involved in the Beluga area which contains the other 75% of the known coal reserves were dropped. Now, if Mr. Brown wishes to say that that was not a change, that the Administration had made up its mind before that, I would just let the Alaskan public look at those two things to make the decision.

Rep. Brown: Madam Chairman, I didn't intend to make Mr. Smith think that I was cross examining him. I was asking questions and just drawing conclusions from what seemed like the answer to questions had been. I still think, you know, I think I might well end up when push comes to shove, voting for the bill that now the Governor says we need that we didn't need a few weeks ago. But I still just have the feeling that there's an awful lot about the whole way in which this was done, is something I just don't like and I don't say - see that was but that's just a suspicion. Maybe this isn't a forum for suspicions but, you know, if he thinks I'm throwing spears at him, I'm not.

Sen. Poland: I believe that's taken care of all the people you had here without (IA).
Excuse me, Representative Rhode, did you have a further question?

Rep. Rhode: No. I thought maybe we were - I was going to ask unanimous consent for a ten minute stretch.

Break.

Sen. Poland: Professor Wolf. We've turned the table so we hope that you folks will be able to hear better. We were unable to get a microphone.

Wolf: My name is Ernest Wolf. I am employed by the University of Alaska (IA) Research Laboratory. I hope that the Committee is not disappointed in my testimony because how much you like (IA) more information (IA) or which you have already gotten or might get better from these other people. I'm no expert on this coal trade or land trade here. I know I've been asked because I've thought a lot about the land situation in Alaska and the resource situation in Alaska and in the country and in the world. (IA) pipeline and the (IA) coal industry will also have to come here (IA) Washington to further make a deal (IA). A very short statement which I have (IA) to the Chairman and he asked me to just read this. It is a very (IA) broad statement and it touches on one aspect of the proposed trade:

"The land along with its resources in Alaska is one of the most important heritages that all people of the State have for individual benefit, as well as for providing a strong economy for the State. The land trade, as proposed, and as I understand the situation, would take State land that has mineral potential and place it in Native Corporation ownership. In return, the land that the State will

obtain has value for surface products (IA) which are less valuable than the wealth represented by the coal potential. The mineral land, if held by the State, can be leased to private industry. As provided for by the Settlement Act, a portion of the State's income from this land will go to each of the native corporations. The remaining portion of the mineral royalty receipts will go to the State for the benefit of all people of Alaska. Thus, in my opinion, the State should retain as much of its mineral resources as possible and make such resources available to the private sector for exploration and mining - which in the final analysis, will be for the good of all people of the State and the Nation."

My own statement of this and I might add a little for a statement that the mineral (IA) surface land (IA) cooked up by (IA) laboratory (IA) Fairbanks (IA) quadrangel which has been pretty well mined out (IA). Now if you want to adopt these (IA) northern (IA) cost the public an equivalent amount (IA) agriculture and 3/4 of you who think that's (IA) 47 years. (IA) at any rate (IA) 50 years anyway. Now I don't have a prepared statement. I've got down a number of observations that I've made about this (IA) which we've been hearing about today. First, I think that with all the insights the economists (IA) the economy studies that have been made. (IA) I think we're (IA) in fact, we've been talking about 8% and 10% (IA) present value (IA) gold return (IA) land economy (IA). We've got these other things which (IA) land (IA). Too many labels to really get down to business (IA) ten cents a ton and 33 and 1/3%. We've got inflation, all kinds of things and if you look ahead (IA) present value (IA) things is practically zero. Certainly (IA) resources will be zero if we consider that (IA) subsidy but before the land (IA) in 1956 the resources of Alaska had no dice. You couldn't get across (IA) file for (IA), And I submit (IA) again. (IA) but before (IA) in 1966, of Alaska (IA) again, the surface value (IA) drops very rapidly. The problem is (IA) back off (IA) land and we don't have to be economists or engineers (IA). But the basis of all production and the basis of all (IA). We're talking about land (IA) land (IA) of gold or recreation or climbing or whatever you want to do. The other thing I think we should say is that, as an old mining friend of mine used to say, everything we have comes out of the ground or off the ground. (IA) We've got to have land in order to keep up our agriculture potential and that's all that's standing between us and disaster right now. (IA) our farmers (IA). In order to have mining, you're going to have to have energy. (IA) of our civilization and our cultural attainment. And we're running (IA) consequences (IA) people throughout the State, right off the bat (IA). I don't care what the present value of coal is. It does supply (IA) people of the State and the nation and maybe the world (IA) pass through to the State. Now (IA) from the State's standpoint (IA) mining geologists and mineral economy (IA) one of the things that we don't seem to think about is that (IA) study reduces by an equal amount the potential (IA) and the result of this in thi. context is (IA) State (IA) known coal reserves decreases by that amount the potential for future discoveries on State land (IA) mining engineers on State land than we've got right now. Another incidence of high (IA) of discovery and development of mineral deposits (IA) takes longer to find than to develop. (IA) critical factor (IA) requires not related to discovery (IA) raise production (IA) rate of production and the result is (IA) state land and reserves. (IA) down the road somewhere (IA) We've got a few hundred pounds of (IA) here. I believe the price, I think we could say (IA) royalty would be the only loss to the State. (IA) Matanuska field (IA) we're going to have to have (IA) probably that first (IA) the corporation (IA) native lands (IA). We've got to realize that we are (IA) and we've got to take care of those needs first and then we can take care of the recreational needs and the environmental needs and the spiritual needs and so

on (IA) got a contract, they had a contract with the Federal Government (IA) several times (IA) Federal Government (IA) contract (IA). Thank you.

Sen. Poland: Are there any questions for Mr. Wolf? Representative Brown.

Rep. Brown: (IA)

Sen. Poland: Representative Rhode.

Rep. Rhode: Dr. Wolf, you mentioned in Dr. Breistline's statement there's, he felt that private industry was being asked to develop these resources particularly coal (IA). It was my understanding that if this land trade goes through and the Beluga coal fields wind up with the native corporation, they are considered private corporations and (IA) private industry was an efficient way to be developed.

Wolf: I think what Dr.Breistline meant there was that either way it was going to be developed by private industry (IA) incorporated (IA) private industry (IA) developed (IA)

Sen. Poland: Representative Brown.

Rep. Brown: Thank you Madam Chairman. Mr. Rhode said, you know, at least it seemed at the beginning of our statement that you're implying that if the land trade goes through, that the State would then lose the benefit of ever developing the resource at all. Of course, Representative Rhode questioned your answer, points out that's not really the case. I'm sure that, you know, and that there are economically feasible lands to develop in these areas and they're going to be developed whether somebody has a lease from the state or somebody has a lease from a private corporation or a native corporation or any corporation at all. So I would disagree with those implications at the beginning of the statement. That's all I have to say.

Sen. Poland: Representative Anderson.

Rep. Anderson: You say you work for the University of Alaska?

Wolf: Yes.

Rep. Anderson: And is this the University of Alaska's position of this?

Wolf: (IA) to that. I was asked to attend this hearing . I got a letter from Senator Poland. I think that I can say that much of what I've said might reflect (IA)

: I don't see why they should be involved anyway.

(IA)

Sen. Poland: (IA) Thank you for testifying Professor Wolf. We have one gentleman here who has to catch an airplane and he has asked me if he can testify at this time and I'll ask those that are having to wait to bear with us. Mr. Bill Waugeman.

Waugeman: My name is Bill Waugeman. Can you hear? I'm president of the Alaska Miners Association. I've been a coal miner in Alaska for 25 years. I'm one of the last of the breed. I think I know a little about it, at least I should. I have tried to analyze the situation as carefully as I can from various and sundry viewpoints and I, for one, and the Alaska Miners Association's position on this is that this trade (IA) regard to the coal land itself. Actually (IA) it's over the mental health lands. As far as I'm concerned, that should go too. What the people in Anchorage don't realize, I'm sure, some of these days, and it's not very far off, the Federal Government's going to come up with a fuel policy. When they come up with that fuel policy, it's not going to be good for the oil producers in the Anchorage area. It may not even be very good for the home owners as far as their heating facility is concerned in their homes. We have been using a high quality fuel in our boilers in this area ever since gas was struck at (IA) inlet. We've been using gas in our homes, too. Now this is a high quality fuel that should never be used in a boiler and my personal opinion is, and it's the opinion of many other people in the United States, that it shouldn't be used in the home. We have billions of tons of coal in the Beluga field as well as in the Nenana field and the othe coal fields around here. And this is the kind of fuel that we should be using foı boilers. So, it appears to me that one of these days that fuel office in Washington D.C. is going to finally come to the conclusion that they're going to have to write a policy and that policy regardless of the public (IA) something like this. Any place that has coal available will utilize that for their own heating and their (IA) and any other place that they can utilize that fuel. And oil and gas is going to be reserved for a better and higher use. Now, as far as the Alaska Miners Association is concerned, there are some other areas in this area with regard to hard rock minerals that I'm not going to touch on today. I'm just going to talk about coal. When you analyze that Beluga coal field, and I've prospected in there for about a week 25 years ago, 24 years ago. I didn't think too much of the field because it's too far away from transportation and too far away from the market. Our Administration, our State Administration, with it's no (IA) policy has turned off practically all of the investors, especially the mineral investors, in Alaska and if anything is going to be developed in the way of coal or minerals in Alaska, it's going to have to be done by local people. We had our oil for sale and the outfit that was interested in it, decided against it. I know one of the contributing factors was the fact that they didn't like this political climbing of the ladder. We need cheap power. It's a cold country and we need cheap heat. We should have utilized our coal resources. Now, frankly, it is the policy of the Miners Association to get as much of this land into private hands as possible. Although I thought the Native Land Claims Act, of 40 million acres, I can now see where I made a mistake. Unless we get more land into private hands in Alaska we're going to be a poor people. The only thing that makes wealth is natural resources. About the only natural resource we can develop in this country is the coal resources which we'll utilize ourselves and our precious metals. Why do I say the native corporation should have it? Since the State has turned off the biggest part of the potential dollars that would come in and develop our State, the only poeple that are going to have enough money to do this is going to be the native corporations, so if anybody (IA) these park lands (IA) is fuel, it looks to me like it's going to be the Cook Inlet Region, and I think the people in the Anchorage area should be encouraging, and I, for one, think it's a good idea. Thank you.

Sen. Poland: Thank you, Mr. Waugeman. Any questions? Representative Beirne.

Rep. Beirne: Mr. Waugeman, when you're talking about cheap energy, if the reason you believe that here in Alaska that coal would be any cheaper than hydroelectric power, you could put (IA) or out in some of the remote areas that (IA)

Waugeman: I'm glad you asked that question because that's one of the things I'm going to touch on. We put a few figures together on the Devils Canyon Dam deal, and we estimated that we could build a power plant (IA) developing the same amount of energy for just the interest cost on that project, basically the interest that we (IA). So the question is, yes; not only yes, but definitely yes, much cheaper. That construction cost has gotten pretty high.

Rep. Beirne: Madam Chairman, could we have the (IA)?

Sen. Poland: If Mr. Waugeman has the ...

(IA)

Waugeman: (IA) background material? I don't have it with me, but I can work it up for you very simply.

Sen. Poland: If you could send that to us in Juneau...

Waugeman: Sure.

Sen. Poland: Wednesday we're going to be having another hearing on this trade and we'd certainly welcome it.

Waugeman: (IA) done by a consulting engineering firm (IA) by a couple of our engineers.

Rep. Beirne: (IA)

Sen. Poland: Representative Osterback.

Rep. Osterback: Madam Chairman. You said it won't be too long before we'll get the bill from Washington D.C. saying that we can't burn fuel, gas in our homes?

Waugeman: I predict this to be true, yes.

Rep. Osterback: How many cubic feet (IA) home (IA) gas (IA) or whatever you're using?

Waugeman: Well, we're exporting that in the form of a product. We're manufacturing that. We're getting the benefit of the manufacturing profit on that and the utilization of our own manpower.

Rep. Osterback: But you're trying to tell us that we will still ship it over to Japan but we'll be outlawed to use it in our own homes. Nobody's going to give it to us, we'll have to buy it. But we're going to burn coal and let them burn gas.

Waugeman: Well, I don't know what (IA) contract already been let on (IA) this

sort of thing. All I'm saying is that gas is too good to be used for heating purposes. When you have a requirement for this high quality element for the purposes of (IA). There's darn few substitutes for gas, for petro-chemical (IA) and if we have a substitute (IA) substitute (IA) that's coal. Now what is wrong with building a power plant that can furnish you with electricity to heat with?

Rep. Osterback: That's not the question, the answer to the question I asked. We're going to outlaw ourselves through Washington that we can't burn gas but we're still going to ship it to Japan and what are they going to do? It's too good for us to use, but it's fine for the foreign countries?

Waugeman: Well, Japan uses it for heat because they use it for petro-chemical use?

Rep. Osterback: That's the question I asked you.

Waugeman: I don't know. I'm just saying, all I'm predicting is what I think the Federal Government is going to do with regard to a fuel policy for the United States. After all, we don't have 15 (IA) of gas return (IA)

Rep. Osterback: Thank you.

Sen. Poland: Representative Huntington?

Rep. Huntington: I have to kind of disagree with you on your use of coal potential on the basis that environmentalists seem to be pretty successful in blocking all uses of any kind of energy that has a puff of smoke to it.

Waugeman: Well, actually, when you take the analysis of the coal in the Beluga field and the Nenana field and well, those two main fields which are both accessible somewhat to the rail belt (IA) The sulfer in coal, in the coal, is low enough that they will meet the standards very easily. So the initial standards, to be exact, are no problem.

Rep. Huntington: Thank you.

Sen. Poland: Representative Brown.

Rep. Brown: Thank you Madam Chairman. Mr. Waugeman, you indicated that you thought that the resource more likely to be developed was (IA) a good portion we're talking about (IA) regional corporation (IA)

Waugeman: Well, I've - the State, I hope, will never see (IA) they would turn it over to somebody else.

Rep. Brown: I realize that, but I'm saying in that you (IA) way you introduce yourself (IA) you apparently feel that it's more likely to be developed, I'm just asking...

Waugeman: Yes, it's much better (IA) Cook Inlet. What I'm, what I really meant to say was I can see a great possiblitity of the Cook Inlet Region going into (IA) Now if you're going to build a power plant (IA) and put in full (IA) the only way you can go with that outfit is to have them own their own coal mine. We can't be dependent on somebody else for the coal. So (IA)

Rep. Brown: I notice that electric rates in Fairbanks is (IA) recently (IA) oil company that did not own coal resources.

Waugeman: Well, that is not the problem in that town. (IA) increase, that surcharge on fuel is for oil, not coal (IA)

Rep. Brown: I was, if you like playing games there a little bit, but at any rate I have, after showing all the disputes (IA) the Administration from earlier questions, I'd like to at least point out one thing to you. You were talking about the discouraged attitude of the people and miners and that (IA) in developing an industry (IA) requirements of the State and the attitudes of the Administration. I hope you did know that I did, at least on one issue (IA) the Administration did withdraw the sale relating (IA) to the mineral (IA) act.

Waugeman: Reluctantly.

(IA)

Waugeman: I like to be nice, too.

Rep. Brown: That's all I have to say.

Sen. Poland: Thank you Mr. Waugeman. Now a gentleman who's been most patient, the president of the Cook Inlet Native Corporation, Mr. Roy Huhndorf, and his attorney, Monroe Price.

Huhndorf: Thank you. Chairman Poland, Chairman Anderson and members of the Committee. My name is Roy Huhndorf and I am the President of the Cook Inlet Region, Inc. I had planned to give more than a blanket talk today but knowing that you're pressed for time, I shortened my presentation. The Cook Inlet Region Corporation consists of more than 6000 native shareholders.

Sen. Poland: Mr. Huhndorf, in all fairness to you, we think that we're going to be able to get a building for an additional four hours tomorrow and I hate to see you cut your testimony unless you feel that you can do so without harming your presentation.

Huhndorf: I will be happy to answer all questions that you may want to ask and perhaps continue with my presentation tomorrow?

Sen. Poland: You go ahead and take all the time you want.

Huhndorf: The Cook Inlet Region Corporation consists of more than 6000 native shareholders, most of whom are residents of the State of Alaska. I welcome the opportunity to appear before you to discuss the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area."

I come here as part of a long journey, a journey to secure for the people of Cook Inlet Region their land entitlement under the Alaska Native Claims Settlement Act.

The land that Cook Inlet obtained under the Alaska Native Claims Settlement Act is its birthright. We must protect that birthright. If we failed to protect that birthright, through inside selection of lands, the historical claims of our people might forever be lost or slowly reduced to nothing. The Region would be taxed out of existence shortly after 1991. There would not be a viable corporation.

In 1972, after the Act was passed, the Secretary withdrew what was mainly

mountain tops and glaciers for the Region. The State had already patented most of the low-lying land in the Region. Virtually all of the remaining low-lying land was committed to the State by the Secretary of the Interior in September, 1972 when Alaska vs. Morton was settled. This was done without consultation with the Region even though our interests were substantially affected.

The State had taken the land that the Federal government should have withdrawn for Cook Inlet Region under the Act.

This was the situation faced by our shareholders for over two years. In 1974, Senator Jackson and Congressman Meeds promised legislative relief for Cook Inlet Region. It appeared that a just solution could be worked out. On the event of such a solution, as it became clear that there was Federal support for our cause, Cook Inlet Region was urged by the State to change its legislative strategy so that the interests of the State's citizens would be better harmonized with the interests of Cook Inlet's shareholders. The Borough urged the Region to change its legislative goals and remove the Campbell Airstrip, Point Woronzof and other lands from consideration in the draft legislation then before Congress. In effect, the Region was urged by all sides not to look selfishly at its claims for a just settlement of its entitlement under the Alaska Native Claims Settlement Act. The Region was urged to work out with all the competing interests what would be a rational and thoughtful approach in which public needs could be melded with private needs.

This was one of the most difficult periods in the Corporation's history. We were being asked to abandon our past course of action and set out on an entirely new approach, one where we could be asked, where we would be asked to put the claims of the Region in the context of the general public interest.

Let me recount some of the hurdles that this new approach placed in our way: We were being asked to abandon claims to Point Campbell, Campbell Airstrip, and Point Woronzof in light of the Borough's interests. We were asked to abandon claims to the Swanson oil fields so that the present income of the State of Alaska could be maintained. We were asked by environmental groups to abandon claims that would affect the recreational interests, not only of Alaskans, but of the American public. We were asked to abandon claims that would adversely affect wildlife habitats or that would impair the quality of water. We were asked to abandon claims to lands, even though they were withdrawn for the Region, because they were located near potential capitol sites.

The Region agreed to work for a thoughtful general approach that would demonstrate that the interests of the native corporations would be consistent with the interests of the State as a whole. It was critical to show that the native corporations were concerned with orderly growth.

This approach meant more than eight months of constant negotiations. Working out a thoughtul solution has had its physical and mental toll on the voluntary, volunteer members of our Board of Directors who gave unselfishly of their own time.

We bargained in good faith. We followed the rules imposed by the State. I do not think we should be penalized for that. We thought

we had reached a settlement last December. Now, Madam Chairman, we fear that the bargaining rules may be changing after a settlement has been reached.

To be sure, we are not altogether pleased with the outcome of the settlement. We have had to shift more than half our land outside the boundaries of our Region against our will, and only with the deepest tolerance and concern by our sister Regions. The total surface land to which the Region is entitled has been reduced. We have agreed to a greater State and Federal role on some of our lands than would be the case under the Act.

Our village corporations were required to abandon selections in Lake Clark. We surrendered claims to other very valuable and important lands withdrawn for our selection. These are points that are overlooked. It is also overlooked that the native people lived on and occupied all the low-lying land in this area. The Act provides that the land for the native corporations should be similar to village land. Our Region is the one Region where the State had patented almost all such land for itself.

Also overlooked are some of the benefits to the State in the agreement. In the absence of the agreement there are certain hazards for the State. Some of the problems faced by the State in the absence of a negotiated settlement are as follows:

Possible elimination of a steady stream of income to the State from producing federal fields. Possible elimination of the chance to receive immediately the Campbell Airstrip for the Anchorage Borough. The possibility that the Ninth Circuit or the Congress will set aside the 1972 Agreement between the State and the Federal government on the ground that the agreement breached the federal trust responsibility to Cook Inlet Region. Long and painful litigation for every piece of land to which Cook Inlet is entitled. In addition and conversely, the State adds substantially to its Statehood entitlement. It improves its bargaining position in the upcoming Section 17, D-2 negotiations. The agreement also provided the State with its only coastline on the west coast of Cook Inlet, south of Tuxedni Bay. More generally, the agreement seeks to improve land holding patterns from the Talkeetnas to the mouth of the Kvichak.

Madam Chairman, I want to, at this time, also touch on a few issues that have become of particular concern.

The first is the relationship between this agreement and the Statehood Act. I have made it clear to the Chairman that we did not seek an amendment to the Statehood Act nor did we consider such an amendment necessary to carry out the terms of our agreement. The House Judiciary Committee in the House Journal for April 21, 1972, explaining A.S. 38.95.060(b), suggested that subsurface transfers could be accomplished by three way transfers with the Secretary of Interior. We relied on that suggestion and on our interpretation of Section 6 (i) of the Statehood Act. We maintain that there was no need for an Amendment to the Statehood Act for our transfer.

We fought to have the amendment removed from the Cook Inlet provision of the Statute. Second, there is the question whether this transfer is a bad precedent. No Region in Alaska had the concentration of State patented lands that faced Cook Inlet Region. In the first ten years after Statehood when these lands were selected by Alaska, the State was already on notice that the Natives had claims to such land. It is only because more than five million acres of low-lying land had been patented to the State in Cook, in the Cook Inlet Region that the Federal Government and the Congress looked to the State for participation in the solution. It is doubtful that this Legislature, this Legislature will find another instance where this is the case.

Third, there is the question of procedures for such land trades. I assure you that we support legislative efforts to make clearer the procedures to be followed by a Native Corporation seeking to work with the State. We have suffered because of the lack of such procedures. I think Cook Inlet did the best that could be done under the circumstances. We think such procedures should provide guidance on the following issues:

What steps should be taken to consult with local governments where land to be traded is in their vicinity.

At what point should the intention of the State to engage in exchange negotiations be made public and what steps should be taken to notify the public.

What role should the public play, if any, in the exchange negotiations.

At what point should tentative agreements be made public.

What size transfer agreement would be referred to the Legislature.

Under what circumstances, if any, should there be subsurface transfers. And if there can be such transfers, what special procedures should be developed.

How should value determinations be made, particularly for large tracts where there are no present obvious ways of calculating value.

Fourth, there is the question of the Beluga coal lands. These lands were a crucial part of the bargain. The State precluded all known producing oil fields. The Cook Inlet Region concurred - if the Beluga lands were included. We then agreed, after very hard bargaining, to the exclusion of over 75% of the coal-bearing lands because they had Mental Health status.

I believe this was a fair bargain. I also believe that erroneous figures have been employed to inflate the loss to the State and the gain to the Cook Inlet Region. The coal in the Capps Glacier lease is not clearly economic in the short run. It is uncertain that it will be developed before the coal in the Chuitna lease (coal that remains in State ownership). If that is so, the modest figures in the State geology report may, themselves, be too high.

It should also be made clear that the State had already transferred to private parties the right to extract the coal. If the State lost it's coal future, it is not because of this transaction, but because of the leases it entered into some years ago.

Finally, it h s already been made clear from preliminary talks with some of the lessees that Cook Inlet will not be able to profit from the coal unless it contributes, through capital, to the acceleration of development. Our feeling is that we will be a good and helpful partner as lessor; better, we think, for the economy than the State as a partner.

(tape four)

And finally, Madam Chairman, I wish to summarize by saying that this agreement is a difficult and complex one. It represents months of negotiations, of consultations with the Anchorage Borough, with the various interests that are involved in the future of Alaska. It has been praised by Congressman Don Young. The Alaska delegation unanimously supported it.

It passed the Senate and House of Representatives unanimously. I am glad that the agreement is the subject of these discussions under your careful guidance. I am glad that questions as to the Governor's authority will be clarified by the Legislature's action. Many technical questions will arise as you go through your process of deliberation. We are ready to answer those questions. Our very future is at stake. We have done everything that we think could reasonably be expected of us. We are now asking for your support and approval.

Sen. Poland: Thank you, Mr. Huhndorf. Are there questions? Rep. Beirne.

Rep. Beirne: Madam Chairman. Mr. Huhndorf, in your testimony you refer in one place here to where the State (IA) transfer to private parties like (IA). Could you expand on that?

Huhnsdorf: I'm referring to the existing State leasing procedures (IA) so that the prospecting firm that's going to lease (IA) fixed a (IA) royalty (IA). I believe the figures are ten cents a ton.

Rep. Beirne: Does that mean then that if agreement is negotiated and you become the owners of this land (IA) anything lease which now is in effect will remain in effect and you have to honor any negotiations that have taken place prior to this.

Huhnsdorf: We believe that it is necessary (IA) lease.

Rep. Beirne: How large a portion (IA) that lease?

Huhnsdorf: I believe the entire tract in question is under some sort of computer contracting firm (IA) leases or leases themselves. Our geological consultants indicated that (IA) I would have to get the actual map and look at it but it appears the entire area in question would (IA) some preliminary (IA).

Rep. Beirne: Mr. Huhnsdorf, that means that you actually have purchased a land lord's rights, probably negotiations (IA).

Huhnsdorf: That is essentially correct.

Sen. Poland: Representative Brown.

Sen. Brown: I'd like to follow that up. In your statement, you stated that your understanding of, I guess the economic development of coal in that area was the developers or the people who have the leases might not be developing it but for future capital from - in your case, if the swap goes, the Cook Inlet Regional Corporation, if it is your understanding, have you been advised by those you consulted with that this is the case? Did I understand you?

Huhnsdorf: Yes. It is expected us (IA) to inject capital. We want to inject capital and (IA).

Rep. Brown: Well, there's at least some room for speculation that if the land remains State land, there might be some problems developing over coal resources (IA).

Huhnsdorf: I can't speak to that.

Rep. Brown: I notice on page four of your statement you said that the Cook Inlet Region surrendered claims to other very valuable and important land withdrawn for it's selection. Can you give us one or two examples of that?

Huhnsdorf: One example is approximately seven townships in the upper part of the Susitna-Matanuska Valley that was withdrawn for Regional selection (IA).. another area (IA)..

Rep. Brown: What are those townships (IA).

Huhnsdorf: There's basically only low-lying lands that come to us under normal withdrawal the Secretary made to us (IA) The other lands include the West side of the lower inlet about (IA). We desire to obtain those lands, therefore, we agreed to have the Secretary handle this withdrawal for us.

Rep. Brown: Have you already, have you made an irrevocable decision in relinquishing these claims (IA) position (IA) so that you wouldn't be able to go back and regain these claims without a lot of litigation and problems?

Huhnsdorf: The Statutes of the U.S. Congress guarantee that our rights will be re-established if the State (IA).

Rep. Brown: I'm very interested in, in the comments that you had in your statement on page six where you said that the Cook Inlet Region had suffered because of the lack of procedures for dealing with these trades. I'm sure you might have heard under my breath (IA) Osterback, he's suffered too. He's seen some of the pushing and pulling going on between the administration and the Legislature recently in this regard. I find the comments you make on pages six and seven very helpful, but, at least as far as I'm concerned, those address the things that I'm most disturbed about in this land trade. In my view, at least, many factors that - the things addressed in your statement are also some of the political realities regarding (IA) have done and other things that at least make me tentatively support the land trade. But, I am very distressed about some of the procedures that were followed by the administration and the lack of procedures and, at least what looked to me, like a lack of any involvement of the Legislature (IA)...if you were disturbed about something like (IA) administration, they were addressed to the procedures involved and I would not attempt to express an opinion on the substance of the trade itself. I suspect that we might have to, or we should go a lot broader in the areas of those things discussed on pages six and seven so that rather than just involving issues involving likely trades with native corporations, but other matters involving unilateral dis..., you know, prejudicial disposition of State resources by the administration with no Legislative input. That sort of thing could be addressed by (IA) and I thank you very much for your time in that regard.

Huhnsdorf: I would ask, Madam Chairman, that all (IA) Monroe Price our legal consultant in this matter (IA). He has been intimately associated with all of the policy (IA) documents that have been written inviting the trade and if there are questions that you want to ask him after I'm through, I'm sure that he'll be happy to answer them.

Sen. Poland: (IA) I had a question for you, Mr. Huhnsdorf. You know, this