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HARLES NOTEBOOK: PROPOSED COOK INLET LAND TRADE

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PROPOSED
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(NOTEBOOK)

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GOVERNOR'S TRANSMITTAL LETTER

COOK INLET

LAND EXCHANGE



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

1/23/76

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

In my State of the State message, I laid before the Legislature the issue of the Cook Inlet Land Exchange. In doing so, I made the following statement:

Alaska's land, perhaps more than the offshore oil and gas programs, hits Alaskans where they live. This administration believes that sound land ownership patterns and practices are important and we will not hesitate to use State power to influence them when in the public interest.

I continued by expressing the further commitment of the administration to take a major role in land decisions seeking to "balance the proper rights of Alaska's Natives with the long-term interests of the entire Alaska public."

Setting forth the Cook Inlet exchange specifically, I indicated the importance of the matter and my desire that it be the subject of thorough Legislative scrutiny:

Perhaps the boldest of these (land) actions has been the Cook Inlet Land Exchange. Controversial from the first, this transaction is as large and complex as the issue it was intended to resolve. Pursuant to a Congressional request, we worked for months with the other parties for a settlement. More important, support for it has grown as its logic becomes apparent.

Now, though not obligated, I am bringing it to the legislature with confidence, having seen it move through Congress supported by our entire delegation. Should you disapprove it, I will not act, but I earnestly solicit your approval.

By now, this issue is well-known to many Alaskans, as it has had extensive press coverage, has been the subject of an extensive public process, has been reviewed by a special Legislative Council subcommittee, and has been the subject of full Congressional review and action.

In spite of this, and in spite of my conclusion that State participation in the agreement is authorized by existing law, I believe full Legislative review is in the broadest public interest on a matter of this importance and scale.

By the terms of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area", incorporated in Section 12 of the recently passed amendments to the Alaska Native Claims Settlement Act (P.L. 94-204), the consent of the State to the agreement must be given within 60 days of the commencement of the 1976 Session of the Alaska Legislature. I have stated my intent that such consent shall be given unless the Legislature disapproves State participation within this period. Should disapproval occur, I will withhold my consent for State participation.

The matter is thus submitted to you for oversight and policy review, and the attached material should be considered in addition to other public information on this matter and material earlier submitted to the special Legislative Council Subcommittee. Additionally, you have my pledge of full administration cooperation to further explain and illuminate the exchange agreement as your procedures indicate.

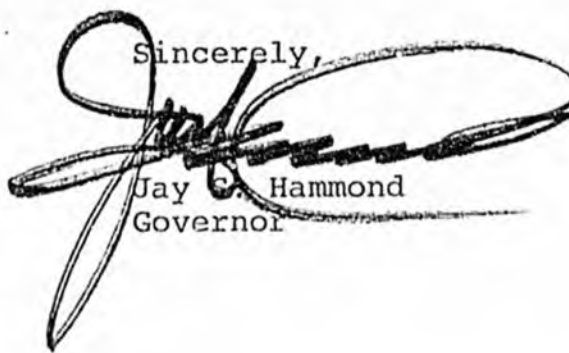
The materials attached are intended to permit an orderly analysis of the agreement, touching on the issues critical for Legislative review. In particular, there is a discussion of the considerations that entered into the deliberations, the alternatives as perceived by the State, and the economic evaluations that have been made. Most important, the documents trace the history of public participation and input into the agreement and the extent to which the final agreement reflects concerns stated by legislators, local governments, other Native Corporations and the public at large.

The exchange agreement, the legal and historical conditions which necessitated and permitted it, and the process by which it was formed are unique and critical to an understanding of the entire issue. So is an understanding of the paths not taken, or the consequences of a failure to take such an action. The entire Alaska delegation supported the agreement, and Congress acted to carry it into Federal law. When the bill was signed by the President on January 2, 1976, it placed the matter before the State and I am seeking your review.

In the House report that accompanied the federal legislation on the exchange, the Committee on the Interior and Insular Affairs noted that the document "harmonizes conflicting interest, seeking to adjust an equitable settlement for Cook Inlet Region consistent with the needs of Alaska and the public at large... It seeks to resolve harmful jurisdictional conflicts and arbitrary ownership and conserves for public use lands that should have that status." I agree.

I submit this set of documents to you cognizant of the care, delicateness and thoroughness that has been the hallmark of the evolution of the agreement, and seek your consideration of the land exchange agreement as the final step in this important endeavor.

Sincerely,

A large, stylized handwritten signature in dark ink, featuring a prominent loop at the top and a long, sweeping horizontal stroke.

Jay S. Hammond
Governor

JAY S. HAMMOND
GOVERNOR



rec'd 2-20

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 20, 1976

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

Dear Chairman Anderson:

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

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

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

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

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

Sincerely,

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

Jay S. Hammond
Governor

February 20, 1976

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

Dear Kay:

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

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

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

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

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

Sincerely,

Jay S. Hammond
Governor

TABLE I.

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

LANDS GIVEN BY STATE

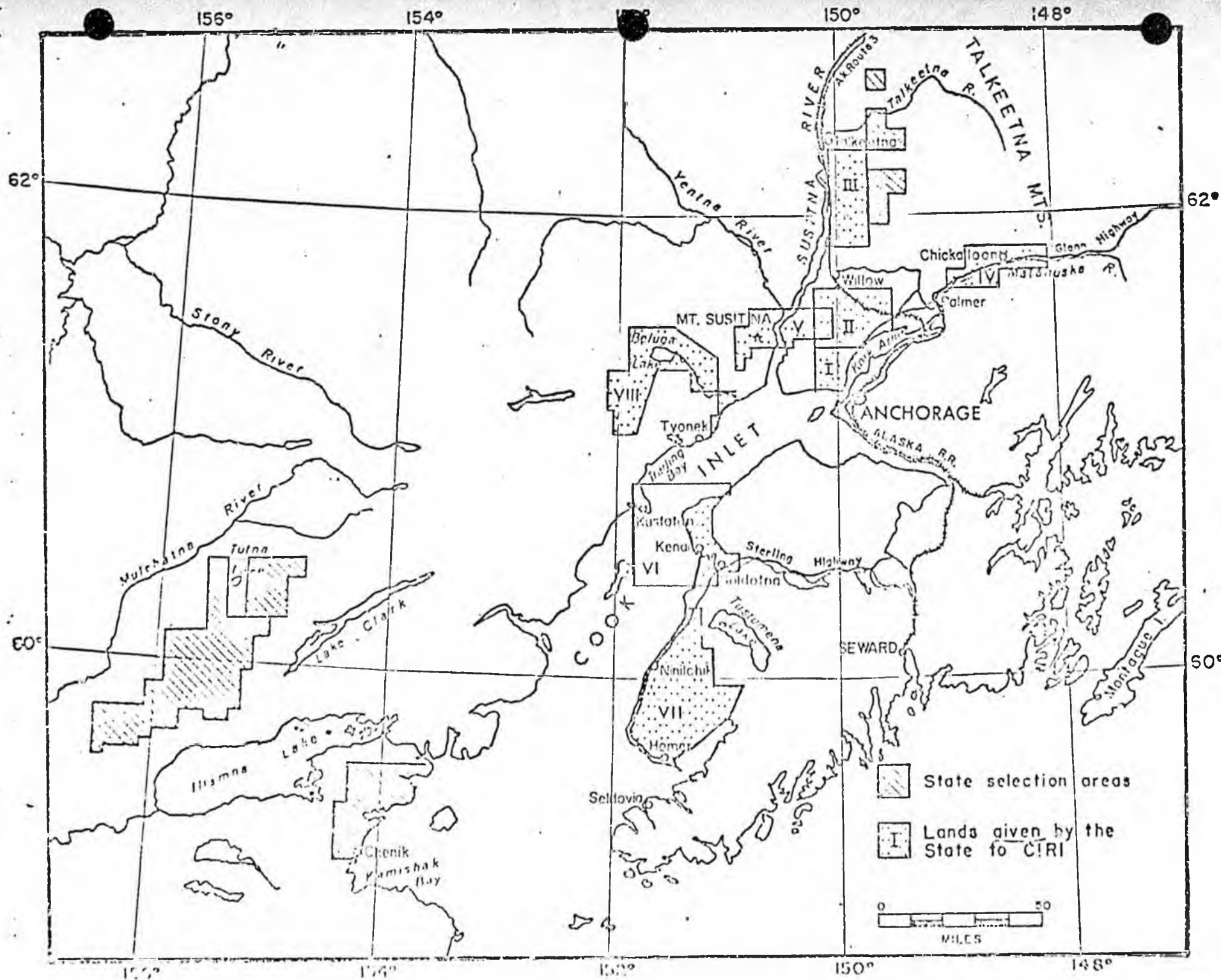
LOCATION	ACREAGE	VALUES (MILLIONS)			
		LAND	MINERALS	TIMBER	TOTAL
Scattered Tracts	69,721	15.7	225/2 ---	1.8	17.5
Kenai Penn.	107,650	15.1	147 ---	1.3	17.4
Beluga	314,640	22.0	78 (15.9 ^a)	1.2	39.1
TOTAL	492,011	53.8	15.9	4.3	74.0

LANDS RECEIVED BY STATE

LOCATION	ACREAGE	VALUES (MILLIONS)			
		LAND	MINERALS	TIMBER	TOTAL
Kanishak Bay	276,480	11.1	---	.2	11.3
Koksetna R.	161,280	6.4	---	.2	6.6
Talkeetna Mts.	161,280	6.4	---	.1	6.5
Bristol Bay	576,000	23.0	---	---	23.0
Campbell Tract	3,930	5.9 ^b	c	c	5.9
Pt. Campbell	1,179	6.6 ^d	---	---	6.6
Pt. Woronzoff	593	4.2 ^d	---	---	4.2
Capt. Cook					
Rec. Area	4,800	.8	---	.1	.9
TOTAL	1,228,742	64.4	---	.6	65.0

NOTE:

- The 15.9 value for the Beluga Coal resources is based on the middle of three scenarios for production in that area (pessimistic, median, optimistic). The value has been discounted at eight percent from future revenues to present dollar values. The most optimistic scenario, which makes several very optimistic assumptions, would yield a discounted value of \$39.2 million (figures attached to map).
- A very conservative figure of three thousand dollars per acre has been assumed for the Campbell tract. This figure has then been discounted fifty percent under the assumption that if the State did not gain immediate title to the acre under this proposal it would still stand a respectable chance of obtaining the land at some time in the future.
- Although other values including timber and specifically gravel are found on the Campbell Tract, sufficient data were not immediately available to make a good estimate of value. However, the value of gravel alone, located as it is within the center of the Anchorage Bowl, would be very substantial, certainly totaling in the millions of dollars.
- As with the Campbell Tract the values of the Point Campbell and Point Woronzoff surplus lands has been discounted to recognize that the State might obtain these lands at some unknown future date in other ways if the proposal is not executed. However, because these lands are outside of the immediate radius of the city boundaries, and because they are not as important as the Campbell Tract for other



PROPOSED COOK INLET LAND TRADE

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Geological & Geophysical Surveys

DATE: January 2, 1976

TO: Michael C.T. Smith, Director
Division of Lands

THRU: Guy R. Martin, Commissioner
Department of Natural Resources

FROM: Cleland W. Conwell *CWC*
Mining Engineer

FILE NO:

TELEPHONE NO:

SUBJECT: Mineral Analysis of Proposed
Cook Inlet Land Trade

On or about the 8th of October, Ross Schaff, Don McGee, and I met with you in your office to advise you of the value of coal land the State was proposing to give away. It is my recollection that we advised you at that time of the value of coal on these lands and of work in progress by the private sector in exploring the Beluga coal field. As I recall, all three of us, especially Ross and I, expressed personal disapproval of the trade. It was and is our opinion that some of the most valuable land in the State is being traded for land that has little or no economic potential.

In direct comment on the articles by Mr. Galliett:

Don McGee and K. O'Connor in AOF 51, page 7, estimate 7.8 billion tons of coal in the Beluga field. Therefore, Mr. Galliett has a reference from a report of the Alaska Geological Survey. My only comment on the first article is that recovery of 50% of the coal is low by today's standards.

In reference to the second article, it is my understanding that Nish and Game have control of fishing and the streams. I believe that this is covered in Section 16 of the State Statutes, so there is no need to control the Lake Clark or Iliamna areas for the fishing potential.

In the 3rd article, Galliett appears to be accurate. I am sure we could check on the number of natives and the allocation, but the figures are approximately those that I have read.

With regard to the specific "Lands to be given by the State to CIRI":

Pt. MacKenzie (Appendix C - 1.B) and This is within the Anchorage area and is a valuable section for port facilities.

Knik-Wilow (Appendix C - 1.B and 3) — This is an excellent recreation area near Anchorage. It contains the Nancy Lake State Recreation area, Meadow Creek Campground, and many lakes. There is both a coal potential and oil and gas potential in the area. Coal at one time was mined at Huston.

Kashwitna (Appendix C - 1.B) -- This is prime agricultural land - Ref: Alaskan Agricultural Potential, Alaska Rural Development Council, Publication No. 1, 1974. It also contains a site selected for the future capitol of Alaska. It is accessible by road and railroad, and has many home sites. The land has potential for fossil fuels and uranium.

Chickaloon (Appendix C - 1.D and 3) — This is excellent coal land and part is under coal lease. Coals in this area have a higher calorific value than the Beluga area, i.e., 7,200 Btu Beluga vs. 12,000+ Btu Matanuska. Some of the Matanuska coals have coking qualities. Therefore, Matanuska coals have a higher market value than Beluga coals. The railroad right-of-way to the area is retained by the Alaska Railroads. There are excellent home sites in this area.

Alexander Creek (Appendix C - 1.D and 3) — Coal, oil, gas, and uranium potential.

Salamatof (Appendix C - 3) and Kenai Peninsula (Appendix C - 1.E and 3) — These are excellent coal lands. The coals are nearly horizontal, therefore, favorable for mining. Several beds at least 5 feet thick underlie the area. Undoubtedly there are at least 11.7 billion tons of coal in these areas. In addition to the loss of coal there would be a loss of recreation along the beaches of the peninsula. This includes both clam digging and fishing. I have been informed by native groups that they intend to protect these rights, and prohibit non-natives from trespassing. A law suit on this matter is presently in court (Edwardsen vs. Norton). These lands also have a high agricultural potential. In the case of strip mining the agricultural potential could be utilized the year following cessation of mining.

Beluga (Appendix C - 2(a)) — This area contains the outcrops of the Cape and Waterfall coal beds which can have respective thicknesses of 27 and 50 feet. Some sections could contain 70 million tons of coal with a stripping ratio of less than 3 to 1. One township could contain 2.5 billion tons of coal. This is also an area of high agricultural potential, and experimental work has proven that reclamation can be done after strip mining.

In regard to the lands to be given to the State by the Federal Government:

- a In general, these lands are underlain by Jurassic intrusives that have a low mineral potential for hard minerals, lack equivalent agricultural potential, lack the recreational value, because of inaccessibility, and, if not selected by the natives might still be open to selection by the State.

In regard to the report by Dobey, Welch, and O'Conner:

There are many misleading statements in the report. I find errors in the calculations regarding the discounted value. The Stanford Research Institute has a report issued in 1975 that gives figures that conflict with those of Robert Bottge. Nevertheless, assuming the inaccurate figures do have meaning, should the State give away such valuable revenue producing land?

By a separate memorandum I am requesting the report by Dobey et. al. be kept for in house use and not issued as an open-file report by the Division of Geological and Geophysical Surveys.

MEMORANDUM

State of Alaska

Department of Natural Resources
Division of Geological & Geophysical Surveys

DATE: January 2, 1976

TO: Guy Martin, Commissioner of
Natural Resources
Thru: Gil Eakings, Acting State Geologist *GJE*

FILE NO:

TELEPHONE NO:

FROM: Cleland N. Conwell *CC*
Mining EngineerSUBJECT: Economic Resource Analysis of
Measured and Indicated Coals
November 28, 1975
P.L. Dobe, J. Welch, K.M. O'Connor

At the request of Gil Eakings, Acting State Geologist, I have reviewed the subject report. I find that the report is misleading, contradicts Alaska Geological Survey open file report #51, is inaccurate and biased. I respectfully request that the report not be published as an open file report under your name and that of Ross G. Schaff. It may be of some use to Mike Smith within the department, but I feel that the quality is too low to justify publications as a Division Report. If published, the report certainly should be reviewed by Ross Schaff beforehand.

MEMORANDUM

State of Alaska

Department of Natural Resources

Division of Geological & Geophysical Surveys

DATE: January 2, 1976

FILE NO:

TELEPHONE NO:

TO: Michael C.Y. Smith, Director
Division of LandsTHRU: Guy R. Martin, Commissioner
Department of Natural ResourcesFROM: Gilbert R. Eakin: *GRE*
Acting State GeologistSUBJECT: Mineral Analysis of Proposed
Cook Inlet Land Trade

In response to your letter of December 29, 1975 to Ross Schaff, I requested Cleland Conwell, State Mining Engineer, to review the three newspaper articles by Harold Galliett and again to assess the tracts of lands involved in the proposed land trade.

I concur with Mr. Conwell's assessment that it is not in the best interests of the State to make the proposed land trade. A purely economic view indicates a high potential dollar value of the tracts to be traded to the Cook Inlet Native Association. Large reserves of quality coal are known, agricultural lands are present, and a reasonably good potential exists for petroleum and uranium. In addition, the lands to be given to CINA have wisely been selected near populated areas and where industrial and population growth may be expected. We believe the potential revenues are very significant and that an attempt to put a discounted cash value on the resources today is not a fair evaluation.

In contrast, the lands to be received by the State in the trade do not appear to have an important mineral potential, are relatively inaccessible, and are not suitable for development.

cc: Ross Schaff, State Geologist

STATE
of ALASKA
DEPARTMENT OF NATURAL RESOURCES

MEMORANDUM

TO: Guy R. Martin
Commissioner

DATE : December 6, 1975

FROM: Michael C. T. Smith, Director
Division of Lands *mcsmith*

SUBJECT: Proposed Cook Inlet Land
Trade

PROPOSED COOK INLET LAND TRADE

Brief History

Because of existing federal withdrawals, state land selections and non-Native settlement patterns within Cook Inlet Region, Cook Inlet Region, Inc., unlike the other regional corporations created under ANCSA, has not been able to select lands which it considered of like and similar character under the formulae established by the Act. For approximately three years following enactment of ANCSA, Cook Inlet Region, Inc. ("CIRI") carried on a long series of discussions with the Secretary of the Interior in an attempt to insure its ability to select lands considered of like and similar character. While the Secretary made a number of withdrawal adjustments, he was not able to satisfy the Region and CIRI went to court seeking redress. Discussions continued between the two parties while litigation ensued and in approximately September of 1974, Interior solicitor Kent Frizzel made an offer to Cook Inlet which specified certain lands which the Secretary would convey to Cook Inlet in settlement of the suit. The "Frizzel offer" proposed, in part, to convey to CIRI ten surface and 15 subsurface townships within the Kenai National Moose Range, including the Swanson River oil field, as well as additional federal lands in the then Greater Anchorage Area Borough. These latter lands included certain parcels which had been eyed by the Greater Anchorage Area Borough for public open space and recreation purposes, more specifically Point Woronzof, Point Campbell, and at least a sizeable portion of the Campbell Airstrip tract. The State did not participate in these discussions and thus was not aware of all contents of the

"Frizzel offer" and the tremendous impact that it would have had upon State interests, particularly financially. CIRI declined the initial offer although it apparently later changed its mind. However, the offer had been withdrawn by that time.

The U.S. District Court ruled in favor of the Secretary in February of 1975, by which point CIRI had gone to Congress to gain support for its problem. Congressional support for some form of amelioration of Cook Inlet's troubles was found with Senator Jackson and Congressman Meedlis. These Members of Congress, both Chairmen and both strongest and most effective advocates for Natives and Indians in their respective House, have each publically pledged to see that Congress protects Cook Inlet Region's ANCSA rights. This guarantee must be taken very seriously. Proposals were introduced which were essentially identical to the "Frizzel offer" and hearings were scheduled on these bills for May. At the same time, CIRI had indicated that they were going to appeal the District Court decision in the 9th Circuit. At this time, the Alaska Delegation and others in Congress suggested to the State that it explore the possibility of entering the discussions between CIRI and the Secretary to see if some mutually agreeable solution to Cook Inlet's land selection problem could be agreed upon which involved State land. This was suggested for the reason that inadequate Federal land was available in the Region, and this was at the heart of the problem.

The State was thus faced with the following factors:

1. Some seven months previous an offer, largely unacceptable to the State, had been offered by the Secretary without significant notice to the State. Such an out-of-court or pre-legislative action offer might be again proposed by the Secretary without

State participation. This is a risk of not taking any State action.

2. Although CIRI had lost in District Court, its appeal to the 9th Circuit included a request that the court nullify the September 1972 agreement between the Secretary and the State of Alaska which gave Alaska selection rights to lands south and southwest of Mount McKinley National Park which CIRI claimed it should have been entitled to select. Should the court find in favor of Cook Inlet, the Secretary would be directed to make available to CIRI for its selection a more acceptable array of lands. The Secretary might then have to reject the State's approximately 484,000 acre selection in this area in favor of making these lands available to CIRI for selection. Additionally, if this should happen and the Secretary can respond to a reversal by the Ninth Circuit by seeking to recover from the State the 484,000 acres sought by CIRI, he might also be forced to recover, on behalf of other Regions, conservation groups and other parties aggrieved by the September 1972 settlement, the other of the remaining forty-three and one-half million acres covered by the September 1972 State-Federal settlement. Although the State would oppose any such legal result it remains a distinct possibility to this day. It is a risk of taking no action.
3. Assurances had been given by members of Congress (Congressman Meeds and Senator Jackson) that Cook Inlet would receive favorable legislation if their problem could not be settled by other means. The bills before the Congress at that time were essentially identical to the largely unacceptable "Frizzel offer." A similar bill is before Congress today as an alternative to the proposal below, and is a risk of taking no

State action.

4. The Congressional Delegation had asked that the State take a more active role in discussions to seek an equitable solution to the problem.

5. By entering the discussions, the State could seek to effect other land trades within the region which would guarantee certain favorable land ownership patterns as well as bring under state control specified areas which the State wished to select itself, but would be unable to select if a CIRI settlement were finalized without State participation.

On the basis of the above the State began discussions with CIRI and the Department of Interior in approximately April of 1975. The discussions continued, becoming particularly intense preceding the Congressional hearings in the middle of May. Because of the complicated nature of the discussions, and with additional time available following the May hearings, the discussions progressed throughout the summer and early autumn. At each hearing, the State responded to Congressional requests, and testified regarding progress on a negotiated settlement. Each time, the State and the other parties were requested and encouraged to continue the discussions, and were advised of Congressional time restraints. Following Congressional hearings in the latter part of September, the land trade proposal was almost complete and the State publicly presented the proposal on October 2, concomitantly holding numerous briefings of smaller, more specialized groups interested in the trade (borough governments, conservation groups, Chamber of Commerce, Legislators, etc.). A thorough press briefing was also held. Following public input, additional discussions were held with Cook Inlet Region and the Department of Interior to reflect public sentiment of the

proposal. Details of the public input and subsequent changes in the proposal based upon that input are documented in greater detail below.

Implications

If the State endorses the proposal and it is passed by Congress and implemented, the benefits outlined later will accrue to the State and other parties involved. If the State does not support the proposal, or if the proposal is not implemented for other reasons, a significant number of possible permutations exist with respect to the final outcome of Cook Inlet's selection problem. The four most likely are listed here, but others which would have profound effects are possible.

1. Cook Inlet loses its suit--The CIRI appeal is now in the 9th Circuit. Should the suit ultimately be lost, and no other remedy found, the Region would select according to the withdrawals presently in existence which precipitated the litigation. Selections would be in conflict with over 20 townships the State had previously selected and between 10 to 20 townships that the State would now like to select (including Kamishak Bay which is the prime lower west side harbor site in Cook Inlet). The pattern of Cook Inlet Region selections would be dispersed and would create difficult management patterns throughout the Region. Substantial land would be selected which is deemed more appropriate for public ownership and use (such as the harbor site and lands in the Lake Clark area).

It should be pointed out that this result is somewhat unlikely, even if the suit is lost, because its loss would very likely precipitate unilateral Congressional action for the reason that these selections are generally regarded as inequitable to the Region.

2. CIRI wins its suit--ramifications of this alternative would depend largely upon the court's directives. Cook Inlet would undoubtedly receive lands of more like and similar character which would be more physically suitable for settlement and development, but such lands are likely to conflict with land uses thought more appropriate by the State. Swanson River revenues might also be included. Sizeable portions of the Kenai National Moose Range, which is also a State wildlife refuge, might be selectable by the Region. The State could lose selections totaling approximately 600,000 acres in the Upper Susitna Valley near Chalatna Lake if the court concurred with one of CIRI's requests for redress (further details are indicated on the attached maps). Much more importantly, the entire Alaska v. Morton out-of-court settlement of September 1, 1972 will be threatened in that the remaining forty-three and one-half million acres of state selected lands pursuant to that agreement would be in jeopardy from other Native regions or other groups who might like to see substantial portions of that state acreage in other ownership.
3. Congressional action--having made commitments to help Cook Inlet, and having waited a considerable amount of time for discussions among the three parties to prove fruitful, Congress might well legislate an alternative amendment over any objections made by the State or others. It is hard to be specific about the form such an amendment might take, however, there is good reason to believe that some alternate form of the "Frizzel offer" might emerge. As discussed earlier, this proposal has extremely unfavorable consequences for the State.

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

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

Basic Objectives Of Proposal

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

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

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

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

faulty logic

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

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

faulty

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

long view for a large resource area.

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

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

required substantial governmental resources.

Negotiation Process

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

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

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

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

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

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

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

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

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

Specific Nature of Proposal

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

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

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

Characterization of Public and Agency Input

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Current Status

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

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

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

2. Bristol Bay Area--the original total of approximately 30 townships in the area of the Interior Department's Lake Clark d(2) proposal which were to be traded by the State in return for an equal number of townships in the Bristol Bay Area has been reduced to approximately 25. This change resulted from a determination by the State that it would be of greater benefit for the State to receive title to approximately 5 townships in the Lake Chakachamna Lake area. In addition to the inherent value of these lands, the Interior Department is very interested in these townships for inclusion in its d(2) proposal. For this reason, the State would retain a very strong bargaining position by obtaining title at this time to those lands.
3. Anchorage Bowl Federal Surplus Lands--while the original proposal specifically prevented CIRI from obtaining title to Federal Surplus Lands in the Campbell Tract, Point Campbell and Point Woronzof withdrawals, the modified proposal goes further in also protecting the Goose Lake withdrawal and in guaranteeing transfer of the Campbell

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

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

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

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

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

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

Major Considerations Before Decision

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

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

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

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

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

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

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

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

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

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

TABLE 1.

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

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

LANDS RECEIVED BY STATE

<u>LOCATION</u>	<u>ACREAGE</u>	<u>VALUES (\$MILLIONS)</u>			
		<u>LAND</u>	<u>MINERALS</u>	<u>TIMBER</u>	<u>TOTAL</u>
Kanishak Bay	276,480	11.1	---	.2	11.3
Koksofna R.	161,280	6.4	---	.2	6.6
Talkeetna Mts.	161,280	6.4	---	.1	6.5
Bristol Bay	576,000	23.0	---	---	23.0
Campbell Tract	3,930	5.9 ^b	c	c	5.9
Pt. Campbell	1,179	6.6 ^d	---	---	6.6
Pt. Woronzoff	593	4.2 ^d	---	---	4.2
Capt. Cook					
Rec. Area	4,800	.8	---	.1	.9
TOTAL	1,228,742	64.4	---	.6	65.0

NOTE:

- a. The 15.9 value for the Beluga Coal resources is based on the middle of three scenarios for production in that area (pessimistic, medium, optimistic). The value has been discounted at eight percent from future revenues to present dollar values. The most optimistic scenario, which makes several very optimistic assumptions, would yield a discounted value of \$39.2 million (figures attached to memo).
- b. A very conservative figure of three thousand dollars per acre has been assumed for the Campbell Tract. This figure has then been discounted fifty percent under the assumption that if the State did not gain immediate title to the area under this proposal it would still stand a respectable chance of obtaining the land at some time in the future.
- c. Although other values including timber and specifically gravel are found on the Campbell Tract, sufficient data were not immediately available to make a good estimate of value. However, the value of gravel alone, located as it is within the center of the Anchorage Bowl, would be very substantial, certainly totaling in the millions of dollars.
- d. As with the Campbell Tract the values of the Point Campbell and Point Woronzoff surplus lands has been discounted to recognize that the State might obtain these lands at some unknown future date in other ways if the proposal is not executed. However, because these lands are outside of the two-mile radius of the old city boundaries, and because they are not as important as the Campbell Tract for other purposes, there is a measureably greater probability that these surplus

Table I. NOTE d. continued.

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

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

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

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

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

A third value which must be estimated is that of the

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

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

with any degree of certainty.

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

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

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

of success with its court suit were measurably increased.

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

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

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

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

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

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

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

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

(h) Increased State Presence in Bristol Bay--

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

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

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

be revoked, it could be selected by the State.

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

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

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

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

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

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

<u>GIVEN BY STATE</u>	
Existing values relinquished	74.0
TOTAL	74.0
<u>RECEIVED BY STATE</u>	
New values received	65.0
Existing values not lost	32.1
TOTAL	97.1

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

them in determining the overall equal value consideration.

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

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

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

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

Conclusions and Recommendations

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

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

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

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

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

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

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

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

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

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

A

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS, 323 E. 4TH AVENUE, ANCHORAGE 99501

OPENING STATEMENT Cook Inlet Public Hearing (October 2-3, 1975)

The transaction which will be described in this briefing and then discussed in public sessions is a unique attempt at governmental/private sector/public interest cooperation to resolve a complex problem of real importance. The problem relates to the right of the Cook Inlet Native Regional Corporation to select Federal lands under the terms of the ANCSA.

Briefly stated, the problem is as follows: The Cook Inlet Region has an entitlement under the ANCSA for land selections, and the Department of Interior has an obligation to withdraw lands for these selections. Unlike other regions, the ability to find adequate land for withdrawal and selection is greatly limited by the high percentage of private ownership and publically classified land in the key Cook Inlet areas. The Department of Interior made withdrawals under these already difficult circumstances which, from the standpoint of the Region were unfair, inequitable and illegal, and which, from the perspective of both the State and the Federal Government, probably created unsatisfactory land ownership patterns in the entire area.

Cook Inlet Region has brought suit challenging the legality of the Interior withdrawals under the Act, and that suit is now on appeal after losing in the District Court. The State is not a party to the suit, although the appeal could have great implications for the State if Cook Inlet Region prevails on one of its requests that land previously selected by the State be redirected to the Regional selections. Thus, there is an element of judicial uncertainty here.

Looking only at the Region and the Department; only two outcomes are possible depending on the outcome of the appeal and subsequent litigation. The first is that Interior will prevail, and Cook Inlet will be forced to select in areas generally agreed to be inappropriate for private ownership and probably inequitable for the Regional Corporation as compared to what other Regions selected under the Act.

The second is that Cook Inlet will prevail, and receive selection rights which, although perhaps more equitable to the Region, would involve selection in areas still inappropriate for private development (Moose Range) or perhaps invalidate State selections, although this is less likely.

Either of these outcomes will have undesirable consequences, and this has been recognized by the State, by the Region, by Interior, by various public interest groups, by Alaska's Congressional Delegation and other members of Congress, and by various other parties in the private sector.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF NATURAL RESOURCES

IMMEDIATE PRESS RELEASE

DIVISION OF LANDS, 323 E. 4TH AVENUE. ANCHORAGE 99501

BACKGROUND

Cook Inlet Land Trade Proposal

In the discussions with Cook Inlet Region, Inc. and the Department of the Interior the State has attempted to accomplish a number of objectives, including the assurance of a rational land ownership pattern within the Cook Inlet Basin and the ability of the State to control certain lands which it feels necessary to properly protect its future interests. This latter point is predicated upon the State's firm conviction that it can govern more effectively and be more responsive to its citizens' needs than could the federal government.

As it is the role of the State to provide its citizens with a number of public services (i.e. transportation, communications, education, public safety, etc.) it is in the State's interest, both socially and economically, to insure that future development occurs in those areas best suited for such development, i.e. within areas which contain good land forms, ground water, no flowing, etc. and to which governmental services may be brought in an economical manner. This was a prime consideration in determining which lands the State tentatively offered to Cook Inlet Region, Inc.

With respect to lands which the State seeks to gain through this transaction, the emphasis was on those lands in the Cook Inlet and nearby Iliamna Lake areas which the State feels should remain in public ownership and which it wishes to own itself to insure that its objectives in those areas are under its' own control. In particular, two areas were sought. First, the lands presently in federal ownership in the Talkeetna Mountains area, where Cook Inlet Region would select, north and east of the populated Matanuska and Susitna Valleys respectively. In addition to timber, watershed, mineral, and high recreational values, these lands will become increasingly more important to the State as future development and settlement intensifies on the periphery in the Matanuska and Susitna Valleys.

The second area of interest is Iliamna Lake. This watershed produces the worlds largest red salmon fishery and it is upon this fishery which the major portion of our citizens in the Bristol Bay Region are dependent. The area is also the focus of the finest trophy rainbow trouts system in North America. The State has management control of these fisheries and by gaining control of the remaining public lands would be able to more effectively manage these fisheries in the public interest. Also, with approximately 15 percent of the lands in the Bristol Bay area going into native village corporate ownership the State feels it can be much more responsive to both their private needs and those of the public in this area than could be the geographically removed federal government. In addition to the very high fishery values, this area has high wildlife and recreational values as well as some oil and gas potential.

COOK INLET LAND TRADE PROPOSAL

PARTIES	LAND TRADED		MAP NO.*	COMMENTS
	LOCATION	AMOUNT		
	Tyonek Area	<.5 Twp.	2	Lands offered to Tyonek to reduce to a minimum Tyonek ownership of land within the Kenai National Moose Range.
	Knik Area	.21 Twps.	3a	More suitable lands near villages in return for public ownership of important lands selected by these villages on Lake Clark.
	Chickaloon Area	.08 Twps.	3c	
	Total	<u>2.8 Twps.</u>		
Cook Inlet, Inc. to State	Talkeetna Mtns. Lake Clark west side of Cook Inlet	31 Twps.	6 a-f	State will designate which twps. from a total pool of approximately 180 twps. from which Cook Inlet, Inc. may select.
Villages and Groups to State	Montana Ck.	.5 Twp.	6 a	State receives lands selected by these groups within proposed Talkeetna Mtns. State Park.
	Caswell Ck.	.5 Twp.	6 a	
	Tyonek	<.5 Twp.	7	State receives lands selected by Tyonek on Kenai Penn. within or on edge of National Moose Range.
	Knik	.85 Twp.	6 a	State receives these lands on shores of Lake Clark.
	Chickaloon	.32	6 c	
	Total	<u>2.7 Twps.</u>		
Federal Gov't. to Cook Inlet	Kenai Nat'l. Moose Range	.87 Twps (20,000 ac.)	8	Moose Range boundary to be adjusted to <u>exclude</u> these lands; a 1/4 ml. "no development zone" on edge of Tustumena Lake.
	Kenai Nat'l. Moose Range	.87 Twps (20,000 ac.)	9	Lands to be <u>within</u> Moose Range and subject to restrictions such that any use of the land must be beneficial to the purposes of the Moose Range.

* See Attached Map for area location

** "Twp" = "Township" = 36 Sections = 23,040 acres

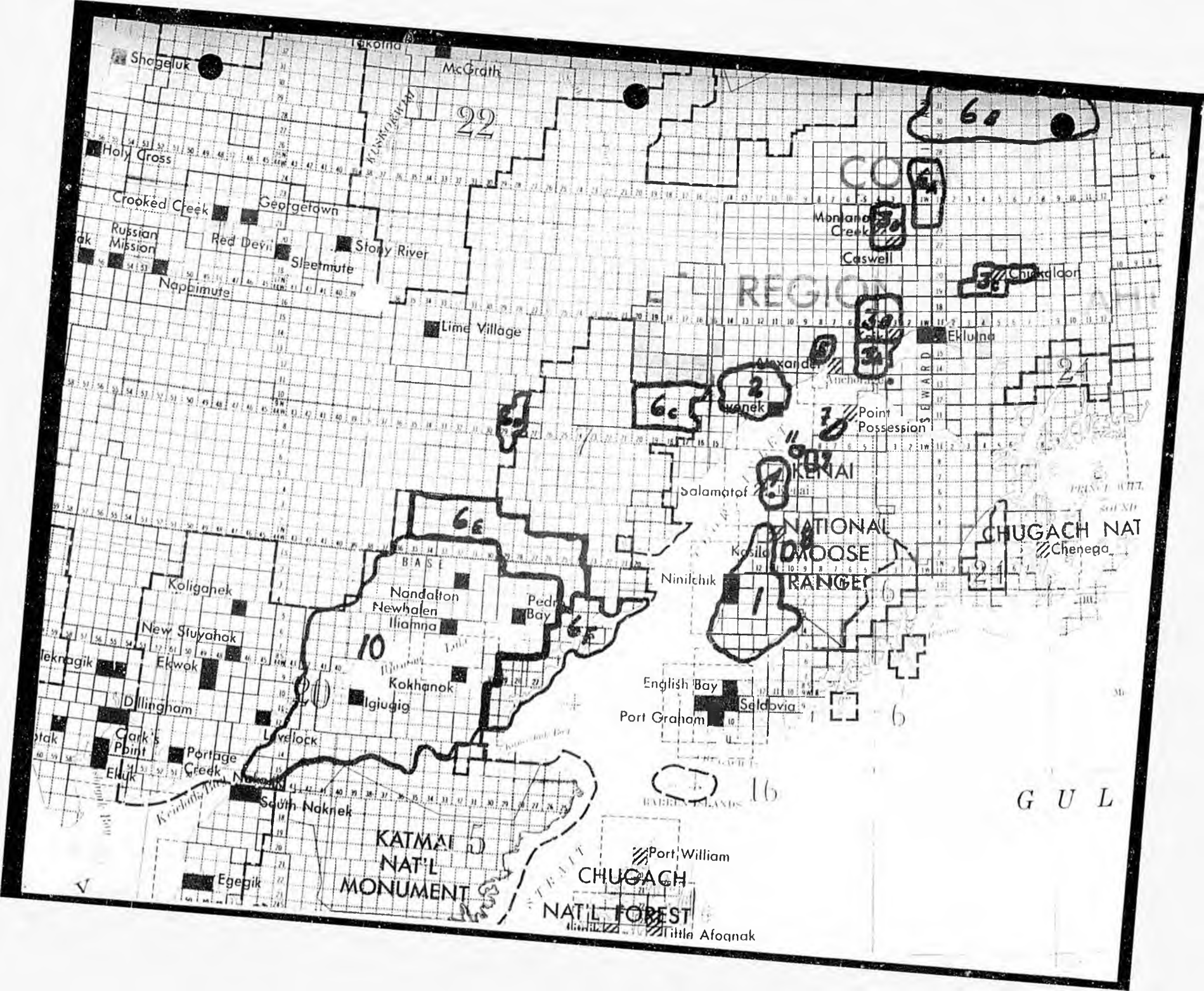
COOK INLET LAND TRADE PROPOSAL

PARTIES	LAND TRADED		MAP NO.*	COMMENTS
	LOCATION	AMOUNT		
Cook Inlet to Villages	Salamatof	1.5 Twps.	6 f	"Out of court" offer to Salamatof to drop village eligibility suit which, if successful, would significantly reduce Cook Inlet's land within National Moose Range.
	Knik Area	.21 Twps.	3 a	More suitable lands near villages to ensure public ownership of important lands selected by these villages on Lake Clark.
	Chickaloon Area	.08 Twps.	3 c	

MISCELLANEOUS

The proposal does not convey to Cook Inlet, Inc.:

- 1) Subsurface resources in any producing oil and gas fields (e.g. Swanson River).
- 2) Any of the Swanson River canoe system lands.
- 3) The Russian River area
- 4) The present federal lands at Point Woronzoff, Point Campbell or the Campbell Tract.



Shogeluk

McGrath

22

60

Holy Cross

CO 4

Crooked Creek

Georgetown

Montana Creek

Russian Mission

Red Devil

Story River

Caswell

Nappimute

Sleetmute

REGION

35

Lime Village

Eklutna

Alexander

6c

Kenek

Point Possession

24

Salamatof

KENAI

NATIONAL MOOSE RANGE

CHUGACH NAT

Chenega

6e

BIASE

Nandalton

Newhalen

Iliamna

Lake

Ninilchik

Lake

Kokhanok

Igiugig

English Bay

Port Graham

Seldovia

Teknagik

New Stuyahok

Ekwok

Dillingham

Cark's Point

Portage Creek

South Naknek

KATMAI NAT'L MONUMENT

CHUGACH NAT'L FOREST

Little Afoanak

Port William

BARREN ISLANDS

16

G U L

B

STATE
of ALASKA**MEMORANDUM**DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDSAPPENDIX B

TO: Cook Inlet Land Trade File

DATE : November 6, 1975

FROM: Michael C.T. Smith
Director, Division of Lands

SUBJECT: Public Notice & input

As it was decided very early in the discussion stage that any final decision would not be made until the proposal was made public and the resulting input analyzed, the administration went to significant lengths to insure as public a process as possible before the final decision was made. Below, in approximate chronological order, is summarized that public notice and input process.

In late April and May, preceding the initial House and Senate hearings concerning CRI's proposed legislation, the State was in contact with a number of individuals and agencies. This included numerous meetings with Tom Meahan, Anchorage Borough Attorney, to insure that the Borough's interests in its recreational and open-space lands were protected. In a similar manner contacts were made with Stan Thompson, Kenai Borough Mayor, and John Spencer, Anchorage City Attorney. Regular contact was also maintained with the Joint Federal-State Land Use Planning Commission. Preceding and following the Congressional hearings in May the media was briefed and carried numerous stories concerning the proposal. With relatively minor exceptions, all aspects of the proposal which have received public comment during the past months were published in the media as long ago as last May. Additionally, detailed presentations concerning the proposal were made before both the House and Senate sub-committees addressing CRI's proposal. These detailed presentations are, of course, part of the official committee hearing records. In mid-June contact was also made with representatives of the Placer Amex Co., owner of several of the coal leases in the Beluga area to determine their feelings concerning the proposal. On June 27th a meeting was held with Mike Spain, Administrative Assistant to Senator Ted Stevens, and on the following day another meeting was held with Senator Stevens concerning the proposal in Anchorage. Additionally, at approximately the same time and in response to a request by Homer Burrell and a reporter from the Anchorage Daily News, the Cook Inlet Land Trade File was made available for their review and this was again followed by a detailed release of the then current proposals in a new article.

Following more testimony concerning the proposal before Senator Haskell's Interior sub-committee in late September, the State launched a five-week public briefing and input campaign to insure public awareness of the proposal.

The specifics are listed below.

Sept 23rd - Letters to all Legislators containing copy of the press release announcing public hearing dates.

" 26th - Public hearing news release distributed to media.

- Sept. 27-28 - Public meeting announcements carried by the press and radio in Anchorage
- Oct. 1st - Detailed media briefing including radio, TV, daily press and Alaska Scouting Report representative.
- Special briefing of groups which had indicated interest in learning specifics of the proposal at an early date (Bice tennial Park Committee, Mountaineering Club, Issac Dalton League, Alaska Conservation Society, Alaska Float Plane Association, etc.).
- " 2nd - Special briefing for organized Boroughs affected by proposal (Anchorage, Kenai, and Matanuska-Susitna Boroughs).
- Briefing for legislators
- Telephone conversation with Placer Amex
- A 2 1/2 hour public briefing and question presentation at Loussac Library in Anchorage (over 70 in attendance).
- " 3rd - Meeting with David Pree, Esquire Re: Mental Health Lands
- Meeting with Alaska Miners Association (Bill Wagaman, President, and Chuck Haulley).
- Public hearing at Loussac Library to receive input (three hours with over 75 persons attending).
- " 6th - Briefing of Capital Site Selection Committee
- " 7th - Public briefing and input presentation held at Alaska-land in Fairbanks following three days of radio and press advertisement of the meeting.
- " 10th - Briefing of Bureau of Land Management personnel.
- " 12th - Meeting with representatives of Placer Amex
- " 22nd - Briefing of Anchorage Chamber of Commerce Special Land Trade Committee
- " 24th - Public briefing of Federal-State Land Use Planning Commission
- Nov. 4th - Public briefing of Kenai peninsula Borough Assembly

In addition, numerous contacts were had with interested groups and members of the public who contacted the Division of Lands to gain more specific information following exposure to the proposal in the media or at public meetings.

STATE
of ALASKA

MEMORANDUM

TO: Cook Inlet Land Trade File

DATE : December 2, 1975

FROM: Michael C. T. Smith, Director
Division of Lands *note*SUBJECT: Public Not. and Input
(Addendum to 11/6/75 Memo to File)

The following is an update of an earlier memorandum detailing some of the specifics of the Public Notice and Input process concerned with the Cook Inlet Land Trade Proposal.

October--the October Issue of the Division's Publication "Alaska Land Lines" carried a five page outline of the details of the proposal as presented publicly the first week of October.

Nov. 7--the Governor, the Commissioner of Natural Resources and the Director of Lands met for three and one-half hours with a special land trade subcommittee of the Legislative Council. A detailed briefing was given to the subcommittee.

Nov. 17--meeting with representative Ted Smith and Harold Galliette at the Division of Lands.

Nov. 27--meeting with Tom Meacham, Land Trust Lawyer for the Anchorage Municipality.

Nov. 25--luncheon speaker presentation by Director of Lands to the Alaska Society of Civil Engineers.

C

Economic Resource Analysis

of

Beluga-Capps Area

and Certain Other Areas

of the Proposed Land Exchange

(See accompanying document from Department
of Natural Resources, Division of Geological
and Geophysical Surveys)

FINAL AGREEMENT DOCUMENT

THIS WILL HAVE TO BE AN X-C OF THE HOUSE OF REPRESENTATIVES
REPORT # 94-729 ON PAGES 35 THROUGH 52 INCLUSIVE.

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:

FINAL
AGREEMENT
DOCUMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) T. 10 S., R. 9 W., E. 1 M. (Healy); and

(b) T. 20 N., R. 9 E., S. 1 M. (Glenn Highway).

(2) T 1 N R 21 W, S. 1 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 CIRC 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. CIRC, 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. 1 M. (Sections 3-10, 15-22, 29 and 30). The Secretary shall transfer to CIRC the above described lands in fee simple. Such conveyance shall be subject to a restrictive covenant, running with the land, providing that the surface shall only be used for purposes reasonably incident to mining and mineral extraction, including processing and transportation. The Secretary shall also convey to CIRC, 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 CIRC 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 CIRC 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 CIRC'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. CIRC 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 CIRC a list of areas where approval of out-of-Region selections is unlikely. CIRC 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 CIRC 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 CIRC, 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 CIRC 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 CIRC's out-of-Region entitlement is, as defined in this paragraph, satisfied. The State and CIRC 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 CIRC, lands may be conveyed without resort to the pool and striking mechanism herein provided, or in the manner described in subparagraph 2 of this paragraph C, in which case the number of townships to be nominated, pooled, struck and selected, shall be reduced proportionately.

(c) The State may continue to select lands under the Statehood Act which may be affected by this paragraph C, provided however, that any Regional nomination made hereunder shall be superior to and take precedence over any such State selection made after July 18, 1975. None of those lands selected by the State under the Statehood Act after July 18, 1975, and also nominated by CIRC 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 CIRC under this subparagraph unless CIRC 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) CIRC 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) CIRC 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, CIRC 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 Chakachamma Lake reserve, if any are ever cancelled or revoked;

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

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

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

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

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 138,210 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 138,210 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 1-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 138,210 acres, or acre/equivalents as described in subparagraph 3(i) of this paragraph.