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several things that we need to talk about and some of them haven't been brought up at all. Several things. First thing would be the trade off in volume mineral values are not easily assessible, but they probably should not be an overriding factor. And there are two considerations that lead to that.
Blank tape.

Hawley: Are not appreciably different.. The second point is that some of the land which the State now can select has been demonstrated by the efforts of Cook Inlet Region to be mineralized. This was done on their behalf by contract mineral companies and this land would formerly have been in D-2 status, this land that they thought they could select and they made the expenditures to go out and prospect it and determined that it was, in fact, mineralized. This land that you can't put a value on it, but in other words, the State may be giving up some things that they're getting mineral values in return. Another related factor is that the major and perhaps only mineable coal in the Beluga area is that that remains in State ownership. I know pretty much what company reserves figures are in the Beluga fields and that they do not exceed the figures brought out by the State or just introduced in testimony; in fact, they're appreciably less than this. This is coal that can be mined in a reasonable future, say the next 25 to 50 years. Okay, so as far as mineral, I think this has been over quite a few, to a large extent. A point that the committee, or legislative action might address, the State will receive land in this trade and these, the trade would obviously be more effected by the mining industry if we can be assured, or, not assured, but, if we can have some assurance that we would be able to prospect on this land. In other words. the land that the State is now getting trade in the Illiamna area, Kamishak Bay area and the Talkeetna Mountain area; some of this probably will end up as parks, say the Kamishak Bay area, the other bear protection area and the salmon area; but it also has high mineral potential. And so, we would feel that the lands that are returned to State selection, many of them should be open to mineral (IA). So, that's a point that I don't think has been brought up.
The most serious problem involved in the trade, that I can see, involves a change of D1 and D2 lands, specifically in the Lake Clark area.
The, and this is one area that's not treated in the economic evaluation of the State, in other words, the State has tried to look for trade offs in the paper that they've prepared; but the State, in the provisions of the government, had given up the right to select anything in this Lake Clark area which is about 30 townships. And, it further has agreed that this land would go into national parks status, not perhaps national parks, but it will be under national park management. We have further agreed that certain lands inthe Kenai Moose Range will not be automatically, that the Secretary of the Cook Inlet Native Association, will encourage their placement in the growing system. In other words, this land is getting the D2 type legislation, they're prejudicing they're already trying to make decent settlements.. The land in the Lake Clark area includes a (IA) which has been billed and the value ... the only (IA) official number that can be estimated (IA) is open file publication of about three or four years ago, the value (IA) ... results in excess of 200 million

dollars. This land would go into national parks and, in effect, constitute a taking because there's no way you can mine a national park or a national park recreation area regardless of what the park service says will happen. This has been pretty much provided in Glacier Bay and if you give it to a national park, you've lost it. I think maybe this whole trade has gone so far that this particular item cannot be remedied but we see similar problems in the southern part of the Brooks Range where the State selected mineral land in the Mt. McKinley area where State-Fedreal trades were involved that the legislature should look closely to what lands the State is going to trade back to the Federal government. The national park service never gives up. They're the most effective group I've ever seen as far as land acquisition and they'll get you every possible way. Maybe some people think that's highly desireable but, I think giving of known mineral land is something that's really questionable; especially since there's no compensation mechanism that really appears to work. Okay, kind of emotional or something like that. But I would like to talk a little bit about taxation and revenue since this was yesterday and this 10 percent royalty provision was negotiated at a time when coal values were low. I think that you also need to put yourself in the position of (IA) at about this time. At the time that they started to pick up coal lands, there was no good coal potential anywhere in the United States. The people had pretty much given up on coal -- you couldn't sell acreages in that area. They felt that here was an area where they could acquire coal which was not economical and by putting in a liquification plant upgrade that coal to the extent that it was economical. Now, events subsequent to that have probably made this coal economical and feasible, but that wasn't their initial plan and they acquired this ground in, they were going to convert it artifically to, say, an environmentally clean product. And, so, when you look at revenues, it's sometimes forgotten that the total revenue to the State isn't just a royaly --it's the State income tax, all the indirect benefits to the State and, in contradiction to what other people have said today, we do have a settlement tax, it's a 7 percent on the net tax, and it would exist on properties and would give a return to the State just as much as if it were to say, remain in State ownership. So, a lot of you people maybe should have been in the tax business anyway. I couldn't resist the chance to get a little plug in there.

One other further danger that I can see in things that are happening in the State is the tendancy for the, I don't know how to say it exactly, but the political, anyway, making the geological survey of the State into a political body. Now, I don't say that this is happening in this case, but the State administration has asked the State geological survey to come up with a document which justifies this trade and they asked them to do after the fact that the trade has been arranged. And I think that's extremely bad and even though I agree with the things in here, the fact that you're asking technical people to get into the political arena is very, very dangerous. It didn't happen in previous administrations because the Commissioner of Natural Resources knew something about resources. It happens here because, they have to go back down the staff to find out anything about natural resources.

(IA)

Well, the previous administration (IA) a minute ago, but they were trying

to acquire economic value for the citizens of the State of Alaska. Maybe they made some mistakes ... Thank you very much.

Sen. Poland: Thank you Mr. Hawley. Representative Brown.

Brown: I'm going to yield to (IA) first because I keep looking like I'm putting my hand up here all the time. Am I the only one asking questions?

Sen. Poland: You can just talk for all of us.

Rep. Brown: One of the things he talked about was a matter involving concern over this 10 percent royalty and I didn't really understand what it was that you were talking about or what it was you were worried (IA) or somebody.....

Hawley: Well,

Rep. Brown: Let me finish my comments and question --and that is, the State, my impression is you can't go ahead and change the royalty on coal that has already been granted and those in Cook Inlet, they may well be re-negotiating but they'll be re-negotiating on the basis of a business decision. The other party probably won't want it if (IA) negotiate (IA) lots of money for the operation. So, what is the danger and the worry here (IA) concerned about?

Hawley: Okay. The danger that I heard today is that people here say " oh boy, coal has just gone from $5 a ton to $20 a ton -- there's really going to be a tremendous windfall profit that people can tax." I think you need to look carefully at that. The State can increase their royalties, it does have the potential at any time to increase, say to raise the net tax or other tax provisions for gaining revenue.

Rep. Brown: (IA) there's a royalty and then there's a tax.

Hawley: Okay, but there's still (IA) the State. It's sort of a technical question but it still comes out as profit, a piece of the pie and you can only cut it so small. Well, this thing is happening on oil legislation right now. They want to increase the (IA). They can increase the royalty (IA) little bit tricky right at the moment. But, don't assume that these people are going to make a tremendous windfall profit. If it goes to a liquification plan, about three or four years ago it was estimated that a plant like this would cost a hundred million dollars and no one had ever built one then; so, I think you're looking at capital costs of one to two hundred million dollars that they need to get back before you start worrying about trying to tax any excess profits. That's what I'm getting at. There's a tendancy to think that people in the resource industry are making .....

(tape nine)

Hawley: ... extract resources other than oil and gas, some specific industries of the entire century so far has been a net loss. (IA)

Sen. Poland: Are there any other further questions of Mr. Hawley? Thank you very much. Stewart Ramstad?

Sen. Poland: Cecil Barnes? And William Johnson has submitted written testimony to the committee and will not appear. Dr. Douglas Stark?

Stark: My name is Douglas Stark and I live in Anchorage. I want to say that I appreciate your committee being here and holding the exhaustive hearing on stoppages hearing this morning in Palmer. I have no personal ax to grind. I could stay home and trust that you will recommend approval of the agreement but I know that there is opposition for various reasons and a Legislative body such as yours can't help but think that maybe the testimony here is in fact representative of the constituents. So I figure it is desirable for citizens to testify. (IA) background of this issue. The Native Claims Settlement Act provides that the Cook Inlet region has a right to a certain amount of land because private parties in the State have already selected the best land for themselves. We have a problem in the regional (IA) court. Settlement Act provides a very rigid formula for land distribution but since there was a problem in this area, the State, the region and the feds sat down and negiotiated an agreement. This, in itself, is commendable because all factors can be taken into account (IA) this rigid statewide guidelines. (IA) which reads: "which was not to the benefit of one and the detriment of another but which would benefit all parties." In earlier stages of negotiations various issues were raised as to what the region wide did. During these negotiations, the region gave up the following claims: number one, the Swanson River oil fields; number two, the Campbell Airstrip, Point Campbell and Point Woronzof Tract; number three, the Beluga mental health coal lands. During the negotiations the State held public hearings on the trade. We may not agree with the region's position. We may not agree with the State's position. We may not agree with the federal position. But in a complex issue such as this, there is bound to be at least one bid from key cities, persons confined in this view. In other words, we have to take the whole thing as a package. This complex issue contains many safeguards for the various parties such as restrictions on the sale and restrictions on manner of use. And the State appears to gain 700,000 acres more from the Federal Government than it gives up to the region. In addition, the State gets the Campbell Airstrip, the Campbell Point, Point Woronzof Tracts. A lot of side issues have been brought up. Somebody that (IA) such as the Legislature versus the Administration. As far as care of the land and proper development, based on what I've observed, the land would be best off in the region's hands. In the final analysis we have to examine the alternatives to this agreement and what would happen if it were rejected. Another agreement would involve having to go back to Congress. The various staff who have devoted a substantial amount of effort to this issue, the State in particular, has many other things to do with its limited personnel, sources beside rehashing this issue. I doubt that at this moment, consideration would substantially improve the agreement. I think that it would be similar to the union that rejects an agreement, strikes for three more months and then accepts the same offer that it was originally offered. I think the agreement is a good one and the rejection of it is unwise and I urge your approval of it.

Sen. Poland: Thank you Dr. Stark and Representative ?

Rep. : What is your profession?

Stark: I'm a consultant in management engineering and planning.

: Private?

Stark: Private practice.

: Thank you.

Sen. Poland: Representative Brown.

Rep. Brown: I only have one comment. You said there were some side issues that created muddy waters such as problem of the Legislature with (IA). As far as I'm concerned, I think that side issue is not a side issue. I also would (IA) I think it would have (IA) democrat, republicans or (IA) the legislature (IA) same thing. And it demonstrates a major problem, as people have testified and pointed out, we don't have procedures (IA) we should have. So that this kind of thing has been going on for (IA) So I would strongly disagree with that portion of your testimony. That's all I have to say.

Stark: Well, on that I think we all agree that that's an issue, whether it's a side issue or a prime issue, to some extent it is subsidary to the main issue which is the agreement itself. If the agreement is a good agreement for the State, is a good agreement for the region, a good agreement for the Federal Government, if the alternatives to approval are very negative, then the question is, what is the subsequent issue which is the agreement and if there are some problems at the way in which it was arrived at, then we'll see that it doesn't happen again.

Rep. Brown: But, you know, you really kind of work like you're disaproving the actions of these committes and legislative council and say someone raised a side issue to muddy the water as though there was some kind of criminal intent on the members of the legislative council who asked that the subcommittee involving Senator poland, Senator Rader and some of the others look into that, (IA) I don't think there's any kind of intent. I just wanted to call or question your use of the word. Maybe you didn't intend that that was the case.

Stark: No I didn't.

Sen. Poland: Are there any other questions of (IA)? Dr. Stark, thank you very much. John Baxandall? (IA) speak to us? I guess he's not here. Alec Sisson? Doris Clark? Andrew Camkoff?

Camkoff: My name is Andy Camkoff. I'm a stockholder in Cook Inlet Region. I'm also the General Manager for the Knik Village Corporation, the Alexander Creek Native Association and have been into the particular thing of the land trade quite extensively in the last few months. And in behalf of Knik-Knik stockholders, we have gone through quite an awful lot of additional work in achieving and selecting the entitlement lands that the two village corporations were entitled

to under the Act. We have looked into this trade quite extensively in behalf of our own particular demand problems in and around the Knik and Alexander village port townships prior to the negotiations and the outcome of the tri-party agreement. Knik and Alexander have been burdened with selecting lands in far-off locations such as Lake Clark, Talkeetna Mountains, west side Cook Inlet and only by the means and the outcome of Cook Inlet, State of Alaska and the Department of Interior land trades have the means to particular villages have arrived at any lands close and near to their villages' area. We highly support the trade. We welcome the opportunity to settle the land problems that the village corporations are faced with. The land trade has brought about an awful lot of additional work to corporations (IA) village. An awful lot of additional expenses. We feel that the land trade not only benefits Cook Inlet but also that of the village corporations that are involved that were forced into selecting deficiency lands in the Lake Clark area, the lower west side Cook Inlet. We had mixed emotions about identifying and selecting those lands that were set aside by the Secretary. Consequently we had no choice but to select them (IA) Cook Inlet, Lake Clark. We would have, and if this trade does not follow through with approval, these corporations would be burdened quite heavily in the future with a management problem. Even though we will have lands (IA) we are still going to be land holders in the lower Cook Inlet and geographical problems in consolidation with (IA) lands in the lower Cook Inlet and far-off places. But through the means of the land trade, we're very happy with this and we highly support it and we highly support and appreciate the efforts that have been extended and the time and dollars and efforts of Cook Inlet and the State and also the Department of the Interior. I know that - I don't think any of us have come and testified that this has directly affected this and my intentions were to come before you and present our faces and values and our understanding and that we do support it. But I...thank you.

Sen. Poland: Mr. Camkoff, when I talked to you earlier today, I told you that (IA) that I would like you to confirm that this trade also takes care of the Montana (IA) problem.

CamkoffL Yes. Montana and Caswell group, these two organizations and corporations are not village corporations, have been brought out and brought into the binding documents as to the extent that they are affected. They have been working with the Cook Inlet Region, they have these agreements and understandings of their problems. They too were - faces a lot of problems in identifying proper and desirable lands. Their problems, I believe, have been satisfied by Cook Inlet and the State.

Sen. Poland: Representative Huntinton?

Rep. Huntington: I get the feeling sitting here (IA) I'd like to ask you two questions. First of all, who was in agreement first (IA) Washington, Anchorage or Juneau?

Camkoff: Speaking of what agreement?

Rep. Huntington: (IA) Cook Inlet and (IA)

Camkoff: As it affects the villages within Cook Inlet?

Rep. Huntington: No. You know, you said you were working under (IA) Where was this (IA) drawn up at?

Camkoff: Okay. Let me drop back a little bit and draw you the village picture, those villages that are affected within this agreement within the Cook Inlet boundary. The Cook Inlet villages have brought in, I would call it, under a double tri-party agreement. The original tri-party agreement was called the Cook Inlet, the State of Alaska and the Department of the Interior tri-party. That set out and identified certain parameters of the trade. As it affected the villages, those had been as selected lands in Lake Clark, it involved us in this tri-party agreement where the Cook Inlet villages, State of Alaska and the affected villages. So when I'm talking about an agreement, we had an agreement with Cook Inlet and the State of complying and fulfilling these (IA) of these (IA).

Rep. Huntington: No. First I asked you where does this mean, where was this brought up - Washington D.C.? This agreement that (IA) the one where we're testifying on now, the (IA) royalty agreement. (IA) Washington D.C., Anchorage or Juneau?

Camkoff: I couldn't tell you.

Rep. Huntington: You don't know?

Camkoff: No. I think it's probably a combination of... I think that the federal (IA) much more technical (IA) than I do.

(inaudible)

: Inaudible

: Yes, the agreement, that is (IA) I would first (IA) about a year ago. We had some (IA) in the State (IA) the Federal Government and as we talked with people, plan and develop a coastal development (IA) contribution (IA) benefit Cook Inlet region (IA) and (IA)

Rep. Huntington: Then you feel the native corporations are capable of drawing up its own agreement then on their own side?

: Yes I do.

Rep. Huntington: Then you don't have to run to the Legislature everytime you want a (IA)?

: I agree.

Rep. Huntington: Thank you.

Sen. Poland: Are there any further questions of Mr. Camkoff?

Camkoff: Mr. Huntington, in the one agreement I was saying that the Knik village corporations had gone into Cook Inlet as a...

: I think that's... (IA) clarification of that law. I think (IA)

Camkoff: Knik village corporation and other villages that identified lands in Lake Clark more or less signed a contract agreement supporting those characteristics of the trade with Cook Inlet and we...

: (IA) the village corporations (IA) and the regions (IA) desire to have the villages present (IA) or abandon the selections in Lake Clark (IA) do that. And so the villages have to agree with (IA) selections in Lake Clark (IA) agree to do that and so (IA)

Rep. Huntington: Okay. The reason I asked you is that I get the feeling here that the Legislature wants to do that and everytime you want take (IA) paper and pencil and ask someone if it's okay (IA) and I don't agree with it.

(inaudible)

Sen. Poland: Are there any further questions of Mr. Camkoff? Thank you very much. John Alsworth?

Alsworth: Senator Poland, members of the committee, ladies and gentlemen, my name is John Alsworth, a native of Port Alsworth, Alaska. For your information Port Alsworth is located within the subject land of this hearing and has been in existence since 1941 when my father and mother moved there. We have incorporated as a native group as Tanalian Incorporated under the provisions of the Alaskan Native Land Claims Settlement Act of 1971. However, there are certain complications which have hindered our attempt to attain recognition and gain rightful benefits under this said Act. These complications are as follows: we are enrolled to Port Alsworth and shareholders in the Bristol Bay Region. The location of Port Alsworth is within the boundaries of the Cook Inlet Region. I understand that this land was withdrawn as regional deficiency land and converted to village deficiency land by Public Land Offer. Prior to December 18th of last year certain villages of Cook Inlet filed applications for the lands we have applied for. The reason for this testimony is to bring to light the property interests which we lay claim to within this contested area. Regardless of the outcome, we want our claim to the Port Alsworth lands protected and written into the land swap agreement. After attending the hearings here tonight, our feeling as a group is that we are being ignored by higher interests of bigger corporations or operations. After thirty-five years of my family living at Port Alsworth, we as a group feel that we should have first choice of the land to be filed on.

Rep. Anderson: Mr. Alsworth, really as far as I can determine, there's very little that this committee can do to resolve your problems. But I think it's very helpful for your claim from your point of view to have this particular problem brought to our attention. I think that Mr. Huhndorf has probably listened very carefully to your need here and I'm sure that he will be getting in contact with you. So I think it would be a good idea if you two got together.

Sen. Poland: Senator Rader.

Sen. Rader: Excuse me, I understand, Mr. Alsworth, are you a member of the Cook Inlet (IA) organization?

Alsworth: No. I'm a member of Bristol Bay.

(inaudible)

: (IA) Cook Inlet. (IA) is that down south of Homer?

: No, that's located on Lake Clark.

: Oh, that's right. Yes, that's right... We're, as you've probably gathered by what you have heard here, we (IA) position, you write this Act. I don't know... (IA) I don't know what should be done...

Sen. Poland: (IA) I appreciate Mr. Alsworth's bringing this to our attention but Rep. Anderson and I feel sure that he'll be able to work with Mr. Huhndorf...

Alsworth: I kind of feel, myself, like a mouse under the rug because I'm representing a second people in this group. And I realize that I'm facing the State, Federal Government and the Cook Inlet Native Corporation and this is something that, you know, that I realize could be rather impossible for a group of (IA). But the reason why I come here tonight is to state my interest in the land. I've lived here all my life and it's kind of like someone giving away your (IA)

Sen. Poland: Representative Hershberger.

Rep. Hershberger: John, how much, beside the strip of your actual homesite and where the house is, acreage is involved?

Alsworth: 2,240 acres.

Rep. Hershberger: Less than 2,500 acres. All along the same continuous...

Alsworth: My dad has 160 acres patented that's on the edge of that.

: This was in the plot?

Alsworth: The Port Alsworth area was withdrawn from some five villages now on the south side of Cook Inlet.

(ianudible)

Alsworth: And I realize the problem. The land is rather inaccessible, you can't, you know...

(inaudible)

Sen. Poland This is something over which we haven't any...

: Has the earmarkings of an internal problem.

Sen. Poland: (IA) two regions...

Sen. Poland: Mr. Huhndorf, do you care to comment on...

Huhndorf: I've had a couple of occasions to talk with representatives of Port Alsworth and (IA) trying to (IA) under the trade (IA) and the land would then revert back to its original (IA) we take that stand (IA) and we're prepared to (IA)

: (ianudible)

Sen. Poland: When could we (IA)

Huhndorf: Inaudible

Sen. Poland: Thank you Mr. Alsworth. Thank you. Nelson Ankapak?

Ankapak: Good evening Madam Chairman, ladies and gentlemen. I really don't know where to begin primarily because each time that there is a person up here testifying for Cook Inlet Region, State of Alaska and the Department of Interior land swap it seems like they have looked at my notes. So I really can't (laughter) Anyway, because we have a limited amount of time, I'll make my statement very brief. You have just recently got the agreement between Cook Inlet Region, State of Alaska and the Department of Interior was finalized. I believe that this is a first of its kind to be reached here in Alaska. That is, that three of the largest land holders have came to an agreement, State of Alaska and the native community. We have followed the progress of the course of agreement very closely, primarily because Calista Corporation is one of the corporations that is adjacent to Cook Inlet. And I might add that although the agreement identifies Cook Inlet, State of Alaska and (IA) as parties to that agreement, that before the terms were finalized that Cook Inlet and the members of Calista Regional Corporation had a few meetings and came to some kind of a compromise. I might add that when the Land Claims Act was passed in 1971 and consequently signed into law on December 18, 1971 by, then, President Nixon, the United States Congress declared that there was a need for a fair and just settlement of claims of (IA). Some of the terms of the land swap, I believe, even (IA) by the Federal Government, the State of Alaska to fulfill this need. I believe that late in the game, the Dept of Interior realizing that they did not really fully fulfill, and yet the Act was passed by the United States Congress for fair and just settlement. Thus, I beleive, that was one of the reasons why the tri-party agreement was reached. In short, Calista Corporation is supportive of the terms of the Cook Inlet settlement and would urge the State Legislatures to support them of it. Thank you very much.

Sen. Poland: Thank you. Are there any questions for Mr. Ankapak? Thank you very much Mr. Ankapak for appearing here this evening. (IA)

Armstrong: My name is Carl Armstrong. I'm chairman of the Kodiak Regional Native Corporation in the Kodiak Islands. I'm secretary of that corporation and I serve on the staff as public relations. I'm editor of the Kodiak Islander newspaper. I'm here to urge that the settlement that has been proposed be approved and to... I think I wrote out a list. I find it almost incredible that the Alaska Department of Fish & Game, Alaska Wildlife Service, the U.S. Forest Service, the Land Use Planning Commission, the Governor, the environmentalists, the Borough and the Congressional delegation made up of democrats and republicans are in agreement. I think in the course of the four years we have tried to

implement the Act, believe me, it has never happened before.
I serve as the... Kasilof Land Department...

(break in tape)

Armstrong: ...at least I'm in debt. Hopefully you will correct that situation. In addition to all my other activities, I often serve as a consultant to other regional corporations around there - Iliamna Corporation. Those of you who have been in the Legislature a long time, I think John Rader was the one who told me that a consultant -the definition of a consultant is a man who knows eighty-seven different ways of making a buck but he doesn't know any women. Sometimes that's the way we feel in trying to implement this Act. This agreement, placed in front of you, represents, we think in Kodiak, a pioneering effort under the most difficult circumstance, combining land planning, equal value, the interest of local communities, the future economy of the State and the need for a just and equitable settlement. I'm not going to say anymore than that. I would just urge that you consider the fact that all these agencies and these personalities are very diverse and yet in consulting together on a most complicated matter have come to an agreement. And they put it in front of you people and it's up to the Alaska Legislature now to either say yes or no. And that's my understanding. If you try to alter it, my understanding, than it's all over with. You're saying that in effect (IA) I hope that you won't do that. It would seem to me that the Congresssional delegation, after the display they made over the two hundred mile limit, if they could come to an agreement on this complicated matter, it surely went through the mill, so all the compromises have been made. All the debates have been spoken and there isn't much more than can be done. I'm aware of some of the complications that they got in to and of the sacrifices that everbody has contributed in arriving at some sort of an agreement that is acceptable. I sincerely urge that you do everything within your comprehension to approve that agreement. Thank you.

Sen. Poland: Thank you Mr. Armstrong. Mr. Anderson wants to read the statement of the Bristol Bay Corporation into the record and we have one more witness.

Rep. Anderson: Thank you. I just received a letter from the Bristol Bay Native Corporation that they wrote to me and they state that, "the Bristol Bay Native Corporation hereby goes on record in support of the land exchange agreement between the Federal Government, the State of Alaska and the Cook Inlet Region Incorporated provided that the parties involved recognize and give assurance that the property interests of Port Alsworth are protected." And that's signed by Harvey Samuelson, President of the Bristol Bay Native corporation.

Sen. Poland: Thank you. Mr. Galliett.

Galliett: (IA) Maps (IA) like to mention took me about 60 seconds and think I can do it.
Sen. Poland: Mr. Galliett is our last witness so we will not be meeting (IA)

(inaudible - many people talking at once)

Galliett: Senator Poland, members of the committee, thank you for the opportunity to (IA) I know you've waited a long time (IA) and I admire your tenacity. I think one question here at the outset should be, how far ahead should a statesman

look? I don't know whether you consider yourselves statesmen or not but what we're talking about here is income to our children, our childrens' children and beyond that. The question is whether we're going to give that income to a small percentage of the population of this State or whether the eighty percent of the population of this State is going to retain our most valuable State lands. Now, we're going to be here a long time as citizens and our children are going to be here a long time. Now, what surface and mineral estate are we giving away in this deal? There's a long list of lands that I could cite and it would just waste your time. You have the list. It's difficult and tedious to analyze it. It's taken me weeks. I presume you will just have to do it. The most important moneywise piece of land in this deal is the Beluga coal fields. But close in importance would be the Homer coal fields. And possible next in order would be an industrial and port site on the west side of Cook Inlet which is also involved in this give-away. Now I think, I will try to confine my technical remarks to the Beluga coal fields and the Homer coal fields because there isn't time to go in to the other details. One of the problems that we have with this deal is its uncertainty. It's a blank check to which you're going to put your signatures and then Mr. Smith behind me is going to sit down with the native corporations and he is going to decide what he wants to give them of our State lands. You are not going to know the deal. The way it is written does not permit that. Now one of the problems built into this arrangement, and it was done deliberately because otherwise too many objections would have arisen in particular instances of land being given away, but one of the problems is that many of these villages have overselected, they have selected according to the map which sets forth all alternatives. And I'm not sure that anyone knows what it is they're going to get or what it is that you're being asked to give away to villages. You've seen various figures in the newspapers and you have, I believe, a copy of all my articles in your hand so there is no point in belaboring that issue. How much coal are we giving away? You've heard the experts from the Division of Lands and the Division of Geological/Geophysical Survey who were called in after the fact to justify this deal give their quantities. Now, I would like to tell you how I got into this so you understand something about whether I have a conflict of interest and just how much work has gone into my determination of quantities of coal in the Beluga area. In the first place, I was brought into this by an oil company which calls itself an energy company which still has interests in Alaska that they're pursuing with very, very little help from me. They asked, when they put me to work looking for an industrial site for a refinery to refine State royalty oil, to carefully consider the fact that they were an oil company and therefore interested in coal and not merely oil or gas. So I think I went overboard a little and acquired an awful lot more information than they ever expected. At any rate, they got it. And particularly on the Beluga coal fields. Now, initially I depended on a report by Barnes which is available to the committee which dealt almost entirely with surface outcrops because in the days when Barnes did his work, ten or twelve years ago, no one would think any deeper than a very limited stripping depth of coal and ...

(tape ten)

Galliett: ...the knowledge of how to convert it into something that we can afford to ship, the fact that we're now at the point where we can make oil out of coal competitively with foreign oil. The situation is getting slowly better as research improves the details of the processes that are available to us. The first oil control plant was just contracted for the United States government and it's to go in near St. Louis. This production plant and not merely a (IA). What I did later, after my initial studies of coal and acceptance of some of Barne's figures, was look back again at the rules that these people in the geological profession applied. When they estimate coal, for example, they are very conservative. They don't like to be put in the position of making a grand statement and later having it shot full of holes and being embaressed. So rather than be embarrasses, they establish very arbitrary limits as to how far they will project coal, or infer coal, from the outcroppings or drill holes. Now, this kind of estimate is totally inadequate for the purpose of a large corporation or the State or any other person or group that has the stewardship of valuable property. Of course, the best information, there are others that weren't, and using the mud logs and the electric logs, he has given us information on coal how much coal at varied depths, how thick, what kind of (IA) and various information like this that general good math (IA) how much thickness of coal occurs between 0 and 2,000 feet, 2,000 to 5,000 feet and then again from 0 to 10,000 feet. The quantities of coal are almost unbelievable and yet, on top of all that, I have obtained logs on some of the wells closest to the Beluga area and its my opinion that Mr. McGee, again, as geologists are wont to be, he has been very conservative. I think he has understated even the enormous amounts of coal, but nevertheless, I accepted his figures. I even reduced his figures in making projection from them. Now one of the problems you have here (IA) value (IA) coal (IA) corporation (IA) one we have a lot of faults (IA) all the oil and gas wealth comes in this (IA) faults (IA) instead of drawing the arbitrary (IA) lowland (IA) now, what this figure gives us finally? (IA) coal (IA) 2,000 feet

(testimony barely audible)

(IA) don't understand (IA) the Department of Interior has practically required that coal land (IA) prospecting here in my studies somewhat based on actual physical knowledge. One thing that I'm very conservative in when I talked to Mr. Hackett of the University, still formulating his information on this area. He was (IA) prospectus, he was (IA) information and I recollect and my notes reflect (IA) tertiary sediments contain coal in varying amounts (IA). So to some extent all this work is based on (IA) actual drill holes and the use of mud (IA) the only thing I can't report to you, as that I have not completed the analysis of the electric log - we're working on it (IA) next week instead of coming in here and giving you a lot of malarky about how little coal there is in defense of the deal that's already been made. At least you can see I've done some actual physical work on it and I bring the results of it to you and they can critize my newspaper articles and they can critize my work but at least you have it. (IA) Now from that from those contours, I took every township in the Beluga basin that was in the swap area, and marked on the maps, and I took three

things: I took the percentage of the townships that contained any coal, that is, within the sedimentary basin, the depth of coal as shown by the contours within 2,000 feet of the surface, and finally the 50% factor of ultimate recovery. That would yield recoverable coal, if you multiply each township (IA) figure by 40 million tons for every foot of coal covering the township. The mechanics are really not so important. I've done this twice, independently. The first time I came up with 15 billion, 800 million tons. The second time I came up with 13 billion. Now, we're allowed certain variations in that -it's very crude. I make no claims that it is absolutely accurate or that it constitutes very reliable information. But it's better than just making guesses or taking an arbitrary boundary around coal outcrops. It's a heck of a lot better than taking below that level. And that's what has been done. (IA) Now, since I did that, I've listened to Mr. Hackett who tells us the sedimentary base is several thousand feet deeper than the information on which my prospectus was based. If anything, it nearly halves the coal, not greatly but somewhat. Now, there's so much coal in that area that you're not going to mine it out within a short period of years. It's not going to be a flash in the pan like some of our oil fields. You're going to be mining there for a hundred years or more, probably more. We really needn't concern ourselves with whether it's going to be surface mining or underground mining, we know (IA) accessibility to deep tide water. It's going to be mined by surface mining methods first, then underground methods as mining becomes established and market lines are put up. And finally, I have no doubts but what underground gasification will take the last measures of coal in that area. Possibly long after we're gone. Mental health lands, by comparison, mentioned 13 billion. The State figures on mental health lands with similar calculations came up with about 10 billion (IA) We're not talking about 75% having been taken out of this deal, not at all. We're talking about more in the deal yet than what's taken out. We can labor over figures all night and you folks are tired, so I'll go on. A critical deep water port (IA) we're giving away in this deal will probably end up in the hands (IA) because they're allowed to select one township of surfaces in that area, too. Why is that site so important to us? (IA) has done damn good planning in this State than wander in and out with all kinds of environmental (IA) and never sits down and talks planning. Where are the railroads going to go, where are the pipelines going to go, where are the cities going to stand, where (IA) going to be. Do they think about it (IA)

(testimony becomes nearly inaudible again)

do they think we're going to stay 300 or 400 thousand (IA) that's ridiculous (IA) we should have State lands for some physical improvements that must be made for lack of good (IA) and because I have a client who's interested, I have (IA) bring (IA) over future life of the enormous coal field. There's simply no correspondence in value. This is something that takes a lot of work and the only way to do it, is to make a list and start putting your dollar values down on both sides of the column. I'd like to ask another question to illustrate some of the troubles with this (IA). Why did the amendments to our Statehood Act permit a waiver of the equal value provision? Well, I can tell you in a few words. That amendment had to be put in or people like myself and other citizens who are aggrieved by this

whole thing, would have stopped it in court on federal grounds, not State law grounds, but federal law. Now, what's going to happen is, unless you folks write a bill to eliminate equal values from our State Act, this thing is going to be challenged in the State courts on the basis of our statutes. The changes shall be on the basis of equal value and either party to the exchange (IA) cash in order to equalize the value of the property of exchange. I'm not asking you to write such a provision. I'd just as soon you passed a resolution and then we'll take it to court. (IA) don't want injustice to most Alaskans. You have many proponents here, many of them stand to benefit financially. Why is this deal being pushed so vigorously and in such a short time? Another year or two would permit the State to do the transferring necessary to determine what the values are and do it right. I submit that (IA) of Norway, who's going to (IA) coal and Inland Pacific who owns that coal (IA) would never, never dispose of even a fraction of these coal lands without a drilling program and a complete geological report and this report that you got from the State Division of Geological/Geophysical Survey simply does not conform to what constitutes a good geological report and it lacks information from drilling. The cost of that drilling is such a tiny fraction of the potential values lost here that it simply is not right to dispose of that land without knowing what you're letting go.

I think it boils down to one thing - these Cook Inlet lands that you are being asked to dispose of (IA) survey once they change hands, any production, of course, benefits these native corporations, but more important than that production, which is going to be very low income production for some years I'm afraid, is the asset value added to this cost. It shores up the soft so that other management still needs (IA) values (IA) in a few years when it's saleable will have a very high value. It will simply be impossible to lose those values in that time.

What is a prudent course for the State to do in a thing like this so that all citizens are treated fairly and we don't rob one group to benefit another? We're all citizens of the State, some would rather be treated specially and given special benefits. But we're all together and many of us plan to stay and we'll probably be buried here. First, I suggest that you reject this blank check trade. It is wrong. Second, I say drill these coal fields; that takes an appropriation. Then you'll know what you're doing. (IA) Finally, give the native corporations a chance to obtain title to specific lands and rights that they claim and to make the selections that they're given two years to make. (IA) instead of the mystery (IA) adjucated by Mr. Smith. Another item, trade only on an equal value basis as determined by independent appraisals. I

do not trust the State administration to appraise this land in any way. Another recommendation, all coal lands should be frozen. We're throwing away income on the cheap (IA) have no escalation (IA). This should be done immediately. Finally, (IA) change our coal royalties to a percentage (IA) price so that we get a fair return on our (IA). And last, but not least, if we turn this land over to the Native corporation for a profit making enterprise, and they administer their lease to another profit mining company, you're throwing the doors open for all the evils of surface mining that occured in the other states. I hardly need to remind you that you don't have any surface mining laws, you don't have any coal conservation laws that I know of. You're starting this thing loose for destruction just as bad as I've seen in Missouri around my wife's old home --mounds of material that will take years to grow over with something (IA)....Finally, and I think this makes sense to the people on this Committee and the Legislature, let's call a spade a spade. I would like to see this committee and this legislature purge itself of conflict of interest in this matter. There are too many people that have a financial gain in this deal serving on this committee and in the Legislature and I would like to see them not vote on this issue at all. Thank you.

Sen Poland: Representative Cotton.

Rep. Cotton: You know, there are probably a lot of comments to be made about many of the things you said, but, one thing you did mention about people on the committee and people in the Legislature that may have a conflict of interest making a decision on their own not to vote on the matter, of course you know, that's not up to them. Any time a member of the Legislature decides that they don't want to vote on an issue, they have to have the full consent of the rest of the body and that's a point I thought you might not be aware of.

Calliett: I'm aware of it. I don't know how to solve it but I also know the system, the principle of good government should not be overlooked in the matter of such potentially great loss to the people. It won't pass. It will be observed and it will be criticized and it shouldn't be done that way.

Sen. Poland: Representative Osterback.

Rep. Osterback: Madam Chairman. When you talk about "we", would you explain who "we" is?

Sen. Poland: As far as I'm concerned, right now when I talk about we, I'm talking about 80% of the non-native citizens.

Rep. Osterback: Well, you were talking about the (IA) too and we don't have any up here unless its from California or Texas.

: That's right.

Rep. Osterback: So, you don't want, you want everything to (IA) be controlled (IA)...

: No. ABsoluetely not.

Rep. Osterback: Well, that's the way I took it (IA).

: Well, that's not right. I don't. (IA) State of Alaska to retain ownership of their lands and to administer them in the public interest and in an open way.

Sen. Poland: Senator Rodey.

Sen. Rodey: You mentioned certain conflict of interest that the Legislature has. Could you be more specific with regard to those so that you don't implicate the whole Legislature (IA) would like to know (IA) conflict of interest (IA) suggest a better word.

: I think suggest (IA) I have gone thru the records in the Alaska Public Office Commission of most of the Legislators - not all of them - I didn't really have time. But I have found that quite a substantial number own stock in Native corporations and some that apparently should have reported stock in Native corporations either as trust or interest actual ownership that have not so reported. They very probably do, because they hold office in Native corporation, and (IA) the records are public....I don't see any great point in mentioning names and I probably (IA) ....

: (IA) object.

Sen. Poland: Senator Rodey.

Rodey : You stated that you think that the Governor's royalty rate as unreasonable. I agree with you, this was a fantastic give-away by the State But you also state that if in 17 or 18 years I believe, that you said we we could do something about the royalty rates. On what do you base that statement?

Galliett: Discussions with various people and in reading the contracts that we have with the mining companies. There is going to be some litigation, I feel, when they, when the State attempts to change these but, I think it can be done, in fact, it must be done. You can't leave these royalties rates (IA).

: (IA) I would hope you object (IA). Price could answer that question as to the validity of the leases for the forseeable future and the length of years by which their value is judged and how long it will be before (IA).

Price: (IA)

Galliett: Now, may I comment (IA). I don't propose doing anything doing anything to those leases during the next 18 years or so, that's a valid contract but when it's time for re-negotiations, that's the time to

I think, we can make a change. When the laws are passed, some of them are not direct. Some of them (IA) negotiations. Sitting down with these people and telling them "alright, you've gotten away with a good thing for 18 years and you've paid all your development costs, now we're going to get ours back again," but that's something that will have to be left to the year that it comes up.

: (IA) leases. I'm not aware of the attitudes the State might have in re-negotiating. (IA).

Price: (IA)

: (IA)

: (IA)

: Thank you.

Sen. Poland: Is Mr. Bateman still here? Representative Cotten.

Rep. Cotten: I'd like to comment on something that Senator Rodey mentioned, also Mr. Galliett said that there sometimes not so direct methods of re-negotiating and someone else brought up the fact that there is a mining license tax that probably would apply to the coal fields. In answer to your question, how do you re-negotiate (IA) might be worth (IA)
(IA) comment. (IA)....In regards to who owns the land, of course, a severance tax is being applied to this coal and the State can derive the benefits from them, the royalties, in this case would probably be much less than oil severance providing the vast bulk of 90% of the income to the State. Would you comment on this, the question being does the actual ownership of the land make a great deal of difference to the State has the ability thru severance tax to extract any reasonable amount of income from it that it (IA) of that resource.

Galliett: That's a very good point and it's one I've thought about a lot. It depends on the make-up of the Legislature, I suppose. Now, let's be realistic. You've got a group that will benefit from no severance tax because it's their land, their money, their income (IA). They will oppose it. It's not too easy (IA)...you fellas haven't been awfully successful in taxing the mining industry as I see it. What'll happen in these proposed severances taxes is pretty obvious (IA) money that the native corporations might otherwise enjoy?.

: (IA)

Sen. Poland: Mr. Hawley.

Hawley: (IA)
The gentleman's point is well taken, as far as drilling having been done, however, the depth of that drilling is inadequate to show the reserves of deposit resources of coal that are in that area. I've talked to some of the people that held leases (IA)...they've told me that results of their limited drilling. None of those people have, except possibly (IA) and one or two others, have wanted to spend a lot of money drilling because, up until recently, the

whole thing didn't look like a very good proposition. You must realize that only a very large mine over there can afford all of the overhead costs in establishing shipping facilities, (IA) and so on. So, a lot of the little guys fall by the wayside. I have been advised that there's enough confidential information that is available to you but not to me that you could learn a lot more, alot more about these coal fields than I can make available to you with the information that is public. I would suggest that this information be presented to you before you make any decision. But, more than that, none of us can know what's going to happen in that sedimentary basin which is immediately adjacent to (IA) thickness of coal measures (IA), of course, until you drill it. (IA) to drill it, there are companies that would be only too happy to do it. Until you drill it, you don't know what you're getting into and that's what, in my opinion, you need to do to protect the State.
I don't think this agreement has to go this year or next, maybe the year after. I think being rushed into this thing is typical of the pressure and tactics and all justifications for this haste, this three weeks or a month to the Legislature, ...are just an attempt to cover up what you could discover or perhaps discover in four years in just a little more time. I think the Congress would fully understand if you hesitated to dispose of a coal field as energy resources and in all probability as great as Prudhoe, or greater, while you took those minimum steps to determine just what you're doing.

Sen. Poland: Are there any further questions of Mr. Galliett. Thank you very much. Is there anyone who wants to testify. We will not resume the meeting tomorrow. Have we covered all the names we had on the list of people that were here? Yes?

: I'd just like to say (IA) .... My name is Bob and I've also (IA) geologist here in Anchorage. I've lived here in Alaska for several years now and have been involved mainly in metal exploration for several companies. I'd just like to put this thing in the full potential here which is the main (IA) people are concerned about into a perspective of profitability. This is what we're talking about over here is what the State gives up and what the Cook Inlet Region, or whoever, may gain from it is profitability in the long term. We can do a lot of things with percentages and figures here. It has been suggested (IA) .... there's lots and lots of drill holes, particularly south of Katchimak and the Cook Inlet Basin that indicate a fantastic amount of reserves in coal if you total up,as has been done here, every single bed down to 2,000 feet and if you go below that to 5,000 feet, you come up with just whopping figures and if you put a dollar value per ton on this figure, even if it's very low, with those kinds of figures, you arrive at an exhorbitant potential dollars in possible royalties. But, the thing is that the Committee here should be considering as far as this land trade goes, is the profitability of reserves (IA) at those depths the coal is there (IA) the near future and that might not be in the next hundred years, there's not going to amount to that much. There's coal, even more coal reserves than that underneath the Cook Inlet Basin, underneath the water and a lot of talk has been generated here about possible gasification methods and (IA) going to be able to turn this coal into oil and so forth.
There's some credibility to that and hopefully this is going to be one of the ways that the U. S. and Alaska keeps going here as far as energy goes but, again, you're forced with the same thing, the deeper you go, the more

expensive the cost of drilling, the more expensive the cost of your vacuum and the whole thing deals in profitiblity. If you can't its always been in our economic system, if the dollars aren't there, then there's either another way found or the price goes up to (IA) ...And my suggestion is that in spite of the fantastic tonnages that are possible in the Beluga area that it is the profitability of the thing that the committee should be concerned with and I contend that this is far below what has been spoken of here, if the profitability from my estimates and from other reports over there is in the order of a few billion dollars. The State reports contend there is 15 million dollars or so and another projections have been up into 60 million dollars but the point is that it's a few million dollars of potential royalties if they're sure and in the long run and not billions of dollars. Once you look at the overall land trade here and what the State is getting and what the Federal Government is getting.
In order to appease Cook Inlet, and other parties here, the State would be giving up a potential few million dollars worth of mining royalties but in turn they're gaining surface real estate of high value near Anchorage, Campbell Airstrip and so forth that's been talked about; but, if you want to talk about future dollars and what this (IA) may be worth in future years, what's Campbell Airstrip going to be worth in 50 or a hundred years? I just thought I would like to get a point in there on bringing this thing back into perspective a little bit as to what the Committee should be looking at. If you have questions, I might be able to help you.

Sen. Poland: Are there any questions of (IA). Thank you very much. We appreciate everyone's patience and (IA).

: Madam Chairman, (IA) perhaps an opportunity to speak concerning some of the points that we have not had the ability to listen to some of the comments, however, because of the late hour, because of the people (IA) of the committee to put in, and also because of your request that, again, certain members of the staff be present in Juneau, I think that if we could have access to some of the information that Mr. Galliett has indicated here, we could probably, by Wednesday, have a response from the State Geological Survey concerning some of the items raised and other points that came up from some of the speakers (IA) so if that's ok, refer that till Wednesday.

Sen. Poland: (IA)

: (IA)

Adjournment

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Outline for Oral Presentation
February 11, 1976
David Jackman - John Katz
(This outline represents the personal views of the speakers only).

AN ANALYSIS OF ISSUES RELATED TO THE PROPOSED COOK INLET LAND TRADE

Comparative value of lands given and lands received

The State is giving up 21.5 townships of land:
8 townships in Mat-Su Valley and on the Kenai Peninsula,
13.5 townships in the Beluga area.

The State is receiving approximately 52 townships in exchange:
26 townships in the Mulchatna River drainage northwest of Lake Iliamna,
11 townships adjacent to Kamishak Bay (on west coast of Cook Inlet, southwest of Augustine Island),
7 townships in the Tutna Lake area (approximately 25 miles west of Lake Clark),
4,000 acres (.17 township) of the Campbell tract for recreation and public uses only.

ARGUMENT FOR: The State is giving up lands that are already destined for private development and receiving lands that should best be kept in public ownership.

ARGUMENT AGAINST: The State is giving up lands worth far more than those it is receiving, and is losing both future revenues and planning control over the disposal of large tracts of land in the Anchorage Bowl and Kenai Peninsula area.

Value of the Campbell tract

ARGUMENT FOR: "...the State would receive title immediately to the Campbell tract in the heart of the Anchorage bowl...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 stand a respectable chance of obtaining the lands at some time in the future." (These and subsequent quotes are taken from Mike Smith's memorandum of December 6, 1975. The Committee has access to that document and can place these brief excerpts in their fuller context).

ARGUMENT AGAINST: Seven-eighths of this tract was protected from any possibility of Native selection by the two-mile buffer zone in §22(l) of ANCSA. Either the State or borough was very likely to receive this

tract anyway under the Recreation and Public Purposes Act. Even if this did not occur there is every indication that the Federal Government favors keeping this tract in public open space use due to its importance as a watershed and recreational area.

Protection of Bristol Bay Fishery Values

ARGUMENT FOR: "In the Lake Iliamna and Bristol Bay National Resource Range proposal approximately 15 percent of the lands will be under the control of private Native corporations. The State can more effectively administer to the requirements of its citizens in those areas if it owns the other lands within that region. Additionally, the tremendous dependence upon the salmon fishery resources of that region, and the current responsibility of the State to manage those resources, argue cogently that the State should also control the uplands in that area".

ARGUMENT AGAINST: The State will get no lands at all in the Iliamna watershed which is the critical area for the Bristol Bay fisheries. The lands the State will receive in the Mulchatna drainage are much less important from a fisheries standpoint. Irrespective of the proposed trade, the State will have an opportunity recognized in §17(d) of ANCSA to select lands in the Iliamna drainage within the Bristol Bay village withdrawals after Native selections are completed. The State has other regulatory tools such as the Anadromous Fish Stream Act which can be used to protect fisheries habitats.

Out-of-Region Selection Rights

ISSUE: Under the proposed trade agreement, Cook Inlet Region will have an additional three years to identify and select approximately 30 townships of land from available federal lands outside the region. They are prohibited by the agreement from selecting any lands the Federal Government wants, usch as d-1 or d-2 lands included in the Secretary's park, refuge, and forest proposals, or any of the d-1 buffer lands around these areas called "zones of ecological concern". This will throw Cook Inlet into those lands that would otherwise be prime candidate areas for State selection. As to these lands, State selections could be frozen for three years, with Cook Inlet Region having the opportunity to take the best available lands from a resource utilization standpoint.

ARGUMENT FOR: There are provisions allowing the Secretary of the Interior, after consultation with the State, to submit a list of areas to Cook Inlet Region where approval of out-of-region selections is unlikely. At the end of three years, when the pool of at least 90 townships has been nominated by Cook Inlet Region for selection, State public interests can be further protected by the right of the State to pre-emptively strike 10% of the pool and then by the alternating selecting and striking process.

ARGUMENT AGAINST: The out-of-region selections constitute a loss to the State because these are lands that otherwise would have been available for State selection. (Approximately 35 million acres of land remain to be selected out of the Statehood Act grant of 103.5 million acres). Cook Inlet will be looking for the same kind of income - producing resource lands or other valuable lands that would be high on the list for State selection. With respect to the millions of acres that could be nominated under this procedure, there will be a freeze on the processing of State selections for three years. Thirty townships broken up in isolated private tracts will create the same kind of land management problems outside Cook Inlet Region that it was the partial purpose of this trade to avoid within this region.

Ownership and Control of Key Settlement and Development Lands

ISSUE: Should a private corporation be given control over the timing of development and pattern of disposal for large remaining tracts of land within the heavily impacted Kenai Peninsula and Mat-Su Valley areas?

ARGUMENT FOR: These lands are well-suited for settlement and slated for development anyway. Local sub-division and zoning laws will adequately protect the public interest. Also of like and similar character that the Natives are entitled to select under ANCSA.

ARGUMENT AGAINST: Control over the pattern and timing of State land disposals is an important public policy tool. The State may want to use or dispose of lands for other than minimum dollar returns. It is in the heavily-impacted, growth areas that the State should be careful to hang on to what public land remains.

Impact on the Proposed Lake Clark National Park

ARGUMENT FOR: The proposal results in the return of certain key lands in the Lake Clark area to federal control and prevents further Native selections in this area. In the agreement, the Secretary, Cook Inlet Region and the State, all acknowledge that there are nationally significant resources in the Lake Clark area, and that the scenic, recreational and inspirational resources of this area should be preserved. Area may be valuable for mineral activity

ARGUMENT AGAINST: This trade makes it difficult for the State to ever oppose the establishment of a National Park Service management area around Lake Clark. By the terms of the agreement, Cook Inlet Region is bound to publicly support the establishment of such an area. There are three other National Park proposals for the Alaska Range, and many view Lake Clark as the least justifiable proposal. In order to trade the villages out of Lake Clark, this agreement has become much more complicated than would have been necessary to resolve the regional selection problem alone. Existing village withdrawals are thought to satisfy village selection criteria.

Impact on The Kenai Moose Range

ARGUMENT FOR: Potential inroads into the Moose Range, such as those represented by the "Frizzel offer" for the settlement of the Interior Department's litigation with Cook Inlet Region, have been minimized. Restrictions on surface use and prohibitions on strip-mining will further protect public values on lands that are given up.

ARGUMENT AGAINST: The "Frizzel offer" was withdrawn and not re-offered. The legal authority of the Interior Department to ever offer the Moose Range for regional selections is seriously questioned. Sixteen sections of surface rights in the Tustemena Lake areas still constitute a substantial inroad, and development of the 9.5 subsurface townships could still cause major deterioration of public values.

Value of State Lands in the Beluga Area

ISSUE: Even thought the State may still control the major share of the area coal resource, these 13.5 townships could still represent a substantial future economic loss to the State. In a strict economic sense, the present discounted value of development 15-20 years in the future may be low, but in terms of long-term State interest, it may be highly desireable to have some revenue producing resource ready to bring on line 20 years hence when Prudhoe Bay is winding down. Royalty terms on existing leases could be renegotiated at the end of the initial 20 year terms. Controlling the timing and environmental impacts of coal development would be much easier if the State continued as lessor.

In-region Selection Pool of Surplus Federal Lands

ISSUE: The Secretary in conjunction with the General Services Administration is obligated to try to find 138,240 acres (6 townships) or acre equivalents, in terms of appraised land values (figured at $500. an acre), of land within Cook Inlet region made up of small odd tracts such as lapsed homesteads, surplus federal lands, or revoked federal reserves. These lands would then be made available for selection by Cook Inlet Region using some of the 30 townships out-of-region entitlement, and also made available for land exchanges with villages to trade them out of proposed National Park lands on the west side of Cook Inlet.

Viewed as a loss? Serious question of equating value.

ARGUMENT FOR: "...other federal surplus lands and unperfected public land entries which might go to CIRI within the region would be subject to a State veto (for up to 1,500 acres) 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.

ARGUMENT AGAINST: Many, though not all, of the federal lands to be included in this pool would without this agreement be available for State selection under the 90-day preference right guaranteed in the Statehood Act. These are potentially very valuable lands. The $500/ acre equivalent formula agreed on in the proposal would imply total land values for this 6 township pool of over $69. million.

Swanson River Oil Revenues

ISSUE: Without this proposed agreement, there is some chance that either an administrative or a legislative settlement arrived at by the Federal Government alone might give Swanson River oil revenues to Cook Inlet Region. At present, the State receives 90% of these royalty revenues although there is a recent opinion of the U.S. Comptroller General challenging the right of the State to these revenues.

ARGUMENT FOR: "To the values to be received by the State as estimated above must be added values which, if the proposal is not consumated, 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...Any estimation of the value of these two possibilities...must assume certain levels of probability...and assumption of a .5 probability does not appear unreasonable...(this) yields an estimated value of $20.5 million".

ARGUMENT AGAINST: Under the present Comptroller General's opinion, the State may lose Swanson River revenues anyway unless the State is successful in legally overturning this opinion. In the absence of a finding by the Secretary that these lands were no longer necessary for the Moose Range, federal legislative action would probably be required to give these benefits to Cook Inlet Region.

Amendment of Statehood Act

ISSUE: Section 6(i) of the Alaska Statehood Act prohibits the State from ever conveying away the mineral estate in State public lands. Under State law, resources are disposed of by lease or location only. The recent amendments to ANCSA include a provision waiving the applicability of ¢6(i) in land trades such as the one proposed for Cook Inlet Region.

ARGUMENT FOR: This amendment will facilitate this trade and future land trades.

ARGUMENT AGAINST: This unilateral amendment of the Statehood Act creates an undesireable precedent. Unlike the treatment of native selection of some State lands under ANCSA, this time there was no formal acquiescence by the State in this federal action. Because the

Secretary can be used as an intermediary in any such exchange, this amendment was probably not necessary.

Impact on Proposed Talkeetna State Park

ISSUE: Approximately three townships of Native selected land conflicts with the northwestern portion of the proposed Talkeetna Mountains State Park.

ARGUMENT FOR: The proposed trade would recover these lands for State ownership and possible inclusion in this park.

ARGUMENT AGAINST: These townships are not necessary for a viable park proposal, and other measures such as the reservation of public easements could overcome this problem to some extent.

Alternatives to the Proposed Trade

(This subject will be dealt with fully in the oral presentation).

PROPOSED COOK INLET LAND TRADE

(Department of Natural Resources' Response to Jackman-Katz Analysis dated 2/11/76)

The following comments are offered in response to the document entitled "An Analysis of Issues Related to the Proposed Cook Inlet Land Trade" as presented orally by Messrs. David Jackman and John Katz to the Joint Resources Committee Hearing on February 11, 1976. The comments will follow the order and format of that document.

Comparative Value of Lands Given and Lands Received

The Jackman-Katz analysis neglected several additional lands which the State would receive:

1. 8 Townships in the Talkeetna Mountains.

2. Right to select, at the State's option, 12.4 townships in the Koksetna River area (12 miles west of Lake Clark) and in the Talkeetna Mountains.

3. Early conveyance to the State of the Point Campbell, Point Woronzof and Goose Lake tracts under the Statehood Act.

In the "Argument Against" three points are made:

1. State gives up lands worth more than those it receives.

2. State loses future revenues.

3. State loses planning control over disposal of lands in the Anchorage Bowl and Kenai Peninsula.

Regarding the first point, it should be obvious that the values received by the State in the trade are not strictly economic nor can they be measured only in relationship to the specific lands received by the State. There are many other elements of consideration involved, and their evaluation is complicated by inherent legal and political indeterminacies.

Present values are used to assign meaning to the future revenues involved Whereas the State certainly has interests beyond present (i.e., discounted) economic values, particularly with respect to the Beluga area, the State will continue to own the large majority of known and hypothetical coal reserves in that area.

The State is not disposing of any tracts of land in the Anchorage Bowl. With respect to Kenai Peninsula and Mat-Su Valley areas, the terms of the agreement specifically guarantee virtually complete State control of where Cook Inlet acquires lands. (See "Ownership and Control" comments on page three of the Jackman-Katz analysis).

Value of Campbell Tract

The Jackman-Katz analysis lists three main arguments against the Campbell Tract evaluation:

1. Either the State or Borough would likely receive this tract anyway without the land trade.
2. The tract is protected from Native selection by the two-mile buffer zone in paragraph 22(1) of ANCSA.
3. If tract remained in federal hands it would be managed as open space anyway.

In the State's economic analysis, the value of the tract has already been discounted by a generous 50 per cent, to account for the fact the lands might come to the State anyway. But the likelihood that this land would have come to the State in the absence of this agreement and before some alternative resolution of the Cook Inlet land problem is remote.

Fully one-third, not one-eighth, of the Campbell Tract is outside the protection of the two-mile buffer zone of 22(1). However, section 22(1) of ANCSA is irrelevant here, for the concept of allowing selection within the two-mile limit was accepted by the Secretary in the "Frizzell Offer," has been accepted by both the Secretary and Congress in the agreement document before this committee now

and will almost certainly be waived in any future settlement that occurs without the present land trade.

If kept in federal hands it would be managed by the Bureau of Land Management, an agency charged with disposal of the public lands of the U.S., an agency whose ability to manage an intensive use area within the State's largest population area has fairly been questioned. This scenario is clearly not desired by the Anchorage Municipality, which voted unanimously (10 - 0) on Tuesday in support of the land trade proposal.

Protection of Bristol Bay Fishery Values

Two major points under "Argument Against" are raised:

1. State will receive no lands in Iliamna Watershed.

2. Even without trade, State will have opportunity to select within Bristol Bay Village withdrawals.

Up to eight townships could come from the Iliamna Watershed, depending on the outcome of Question No. 2 below.

While the State maintains that it is entitled to select in these areas, the Secretary rejects that position and prolonged litigation will probably be necessary to resolve the issue.

Another important reason for acquiring State lands within d(2) withdrawals in this area is to strengthen the State's position vis-a-vis the Secretary with respect to the latter's National Resource Range proposal. Any improvement in the State ownership position will serve to strengthen the State's argument for complete State control of the area, for it will establish a land status pattern which is plainly incompatible with the Resource Range proposal.

Out-of-Region Selection Rights

The Jackman-Katz analysis speaks to four main points:

1. Only the federal government, and not the State, is able to protect lands from selection.

2. Lands exposed to Cook Inlet selection would be "prime candidates" for State selection.

3. The processing of State selections would be frozen for three years.

4. A broken ownership pattern of 30 isolated townships could result.

Point One. The Secretary is required to consult with the State before indicating to Cook Inlet lands which he will probably not approve. More importantly, certain lands specifically excluded from selection by Cook Inlet, particularly the "zones of ecological concern" (the d(1) buffer lands around the Secretary's Four Systems proposals), would be available for undisputed State selection. These "off-limit" areas include millions of acres of very good lands. Additionally, the d(1) lands within the Secretary's Four Systems proposals would also be protected. The State feels that several of these areas should more appropriately be available for State selection and control and these areas would also not be available for selection by Cook Inlet. Finally, the State retains a limited blocking power with which to influence Cook Inlet's selections from the pool.

Point Two. The inference that the lands Cook Inlet could select would be "prime candidates" for State selection has no basis in fact.

It must be remembered that the interests of the State with its broad public responsibilities are not strictly economic, the criterion which will probably determine Cook Inlet's selection decisions. Therefore, even if all remaining State selections were to be in competition with Cook Inlet, it is questionable how much conflict in selections would exist. However, since Cook Inlet cannot select outside of the five regions identified in the agreement, and since millions of acres of good lands are protected by the agreement from selection by Cook Inlet, the degree of conflict with State selections is considerably reduced.

Point Three. The State is guaranteed the right to continue to select lands anywhere extra-regionally regardless of Cook Inlet's selection process. The conflict would exist only when Cook Inlet identified those lands for nomination to its selection pool. The concern over a three-year freeze on State selection processing is of no concern since the logistics of BLM's adjudication of State transfer of title run to five and six years under normal conditions.

Point Four. The spectre of 24 to 30 townships of broken and isolated tracts of private land is very much overstated. Within its region, Cook Inlet could make similar scattered selections in any event, and this agreement requires that selections be made in at least township block size, a far greater constraint upon selection configuration than presently pertains to the region's selections. The agreement specifically states, "It is the intent of the Secretary and the State that all out-of-region selections shall be as compact as practicable, and that wherever possible, CIRI shall select lands which are contiguous to privately owned lands."

An additional point is the prospect of extra-regional selections for Cook Inlet even if the trade is not consummated. There is no way of telling under what conditions Congress might permit extra-regional selection. Under this proposal, there are definite safeguards for areas where the region cannot select and additional protection for the State through its consultation function with the Secretary and its striking provision.

Ownership and Control of Key Settlement and Development Lands

The analysis argues that the State would lose control over the pattern and timing of State land disposals, an important public policy tool.

On the contrary, the agreement is a perfect illustration of the exercise of that control, and it is accordingly structured specifically to provide for State control of ownership patterns. Selections will not commence until a complete land use study has been done of these areas. Then, selection will be only by mutual consent. If mutual consent cannot be obtained upon all lands, it is the State which then chooses which lands Cook Inlet may consider for its remaining selections. Thus, the agreement provides specifically for the control of ownership patterns which Mr. Jackman and the State so value.

Impact on the Proposed Lake Clark National Park

First, the Jackman-Katz analysis has taken one sentence of the agreement and edited it and quoted it out of context as follows: (The actual agreement passage is quoted in its entirety. Brackets indicate those words or phrases edited out of the analysis.):

> "The Secretary, CIRI and the State recognize that there are nationally significant resources

in the Lake Clark area. [Management of this area should be flexible and recognize] the scenic, recreational and inspirational resources that should be preserved [as well as State and local interests including subsistence and sport hunting.]"

The Jackman-Katz analysis makes two "arguments against":

1. The above language makes it difficult for the State to ever oppose a National Park Service management area around Lake Clark.

2. The Village tradeout provision has made the agreement "much more complicated."

Point One. The State in no way acknowledges or supports establishment of a National Park Service management area around Lake Clark. To the contrary, the specific language, edited out by the Jackman-Katz analysis, constitutes a Secretarial recognition that a flexible management system is required and that State and local interests including subsistence and sport hunting must be recognized. Moreover, the agreement memorializes the fact that the State continuously opposes the federal proposal.

Point Two. The Village tradeout aspect is not complicated. It merely requires that Cook Inlet Region, as a prerequisite to execution, must induce certain Villages to renounce their Lake Clark selections. The manner in which they do this is between Cook Inlet Region and the appropriate Villages.

Impact on the Kenai Moose Range

The analysis offered the following "arguments against":

1. The legal authority for the "Frizzell Offer" is in question.

2. The 16 sections of surface rights under the agreement still constitute a substantial inroad into the Moose Range.

3. Development of the up to 9.5 subsurface townships could still cause major deterioration of public values.

Point One. This argument (and others suggesting a distinction between administrative and legislative action at the federal level) are totally irrelevant. If there is another settlement which includes a portion of the Moose Range, congressional action will be necessary. The legal authority of the Secretary will be a moot question.

Point Two. Sixteen sections of surface rights constitute only seven-tenths of one per cent of the land within the Moose Range. Is this a "substantial inroad?" None of the conservation organizations which have supported the proposal regard it as such, nor does this Administration.

Point Three. The Kenai National Moose Range already has producing oil and gas fields. There are other existing oil and gas lease rights in the area today. The specific covenants in the agreement require that the same continued surface management control as exists today would continue to remain in the hands of the Fish and Wildlife Service. Therefore, in terms of surface use, it will make no difference who owns the subsurface rights.

Value of State Lands in the Beluga Area

The Jackman-Katz analysis indicates that the State would be giving up control of the timing and environmental impacts of development in the area. Under the terms of the existing leases, the State has virtually no control over the timing and development. The lessee may develop when he

wishes. Environmentally there might be some advantage to maintaining ownership, however, the State is still in an extremely strong position with its air and water quality regulations and there will undoubtedly be strip mining legislation on the books well before development in this area occurs.

In-Region Selection Pool of Surplus Federal Land

The Jackman-Katz analysis states that many of the federal lands to be included in this pool would, without this agreement, be available for State selection.

The best estimate of the Bureau of Land Management is that there might be 30,000 acres (1.3 townships) of lands available for the in-region pool. Probably the major portion of these (conceivably, all of them) would not be available for State selection should the Secretary decide in another settlement that the lands should be available for Cook Inlet Region. On the contrary, since the State has made blanket selections throughout most of the region, the State will take the position that most of the unperfected public land entries or other reverted interests within the region are already under State selection and are therefore not available in any case for the pool. If the State exhausts its

free blocking privilege, it may continue to block objectionable selections by substituting other lands on a value for value basis. In addition, the State at all times enjoys the option of advocating that the Land Use Planning Commission recommend that the Secretary exclude particular parcels from the pool.

Swanson River Oil Revenues

The analysis indicates that the recent Comptroller General opinion contends that the State is not entitled to its 90 per cent of the Swanson River royalties (in a separate action not related to the trade). The State's position, reviewed by several lawyers within the Attorney General's office, as well as the Attorney General, is that the State is in a very strong position in this case. In fact, the Attorney General's office has recommended to the Commissioner of Revenue that the State should consider the Swanson River revenues in all future State income forecasts. We are informed that there is a lively possibility that the Comptroller General will reverse this position without the need for legal proceedings.

Amendment of Statehood Act

The Jackman-Katz analysis indicates the following:

1. The amendment was needed to facilitate this particular land trade.

2. This unilateral amendment of the act by the federal government creates an undesirable precedent.

3. By using the Secretary as an intermediary in any such exchange, this amendment is probably not necessary.

Point One. Neither the State nor Cook Inlet Region felt or presently feels that this amendment was necessary to consummate this trade. The amendment was pushed by the Secretary of the Interior, not out of any paramount concern for Section 6(i) of the Statehood Act, but simply to allow the Secretary himself to have more flexibility in land trades. It has absolutely no effect on the state legal framework for land disposals.

Point Two. There have been at least two previous unilateral amendments to the land provisions of the Statehood Act by the U.S. Congress without previous consultation with the State Legislature. In those cases, as

in this, Congress was merely allowing the State more freedom or flexibility to do things which Congress originally constrained the State from doing.

Point Three. The State concurs that the amendment was probably not necessary. If the amendment does anything, it merely confirms the Alaska Legislature's assumption, expressed in the legislative history of the 1972 statute, that Section 6(i) has never been an impediment to transfers of the undivided estate to the United States under Section 22(f) of the Alaska Native Claims Settlement Act.

Important Point: As Mr. Katz has stated, the United States Congress cannot by federal legislation compel or authorize representatives of a state government to act outside the statutory constraints set up by a state legislature. In other words, although the Congress may have confirmed the view that the Secretary is not bound by Section 6(i) from the federal standpoint, and although it may have allowed the Secretary to trade for other than equal economic value, Congress has not authorized State employees to ignore State statutes which speak to those two points.

Impact on Proposed Talkeetna State Park

The analysis indicates that the three townships of Native selected land presently within the park proposal are not necessary to a viable park.

1. From a planning standpoint, these lands are certainly appropriately contained within the park. If the lands were to go into private ownership, the State would almost certainly, at great future cost to the State, find itself buying these lands back.

2. The Administration was specifically asked last year by the Senate Resources Committee to attempt to remove Native selections from these areas so that they could be addressed within the park proposal.

2/12/76

From: The Desk Of:

Dale P. Tubbs

2/18/76

Senator Ray Poland

Enclosed are my comments made at the Cook Inlet Land Exchange hearing. Also enclosed are copies for your committee members

Dale P. Tubbs

Deputy Director, Alaska Division Of Lands

02-001B

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS

TO: The Honorable Kay Poland
Chairman, Senate Resources Committee
and the Honorable Nels Anderson
Chairman, House Resources Committee

DATE : February 11, 1976

SUBJECT: Cook Inlet Land Exchange Agreement

The following is the substance and comments made at the Joint Senate and House Resources Committee hearing by myself regarding the Cook Inlet land exchange on February 11, 1976.

I am the Deputy Director of the Alaska Division of Lands, Department of Natural Resources. My involvement in the Cook Inlet land exchange has been minimal. My first involvement was during the 1st half of 1975 to identify some of the resources in the general area of Beluga Lake and the Mt. Susitna. On not more than three or four other occasions was I asked for general type information. At no time was there group staff review by the professionals within the division to discuss and evaluate the negotiations that took place. This is a reason for the conflicting testimony you have been receiving. No questions were posed to the Division of Lands staff to obtain professional opinioned comments regarding the merits of the negotiations.

My concern, questions and observations of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as follows. There may be answers to some of them, however without the benefit of staff discussion, they remain as questions in my mind.

1. Congress has voided out the requirement for the state to retain the mineral estate when land exchanges are involved. With this being so, then why go through the exercise of conveying title to the Bureau of Land Management for reconveyance to the CIRI or the villages?

2. Even though Congress has voided the requirement to retain the mineral estate, Alaska Statute 38.05.125 requires that all leases, sales or grants of state land contain a specific mineral reservation (see attachment).

3. Under what authority is this exchange being consumated? Is it broad powers of the Commissioner AS 38.05.020; the broad powers of the director AS 38.05.035 or the provision for exchange of native lands AS 38.95? Regardless of which authority, was it the intent of the legislature to allow exchanges of this size to be consumated without a mineral reservation?

4. With Congress changing the mineral condition of the Statehood Act, is a ratification vote by the Alaskan voters necessary?

5. It is my understanding that the Department of Interior has appealed the decision as to the eligibility of some of the villages involved in this agreement. Isn't it premature at this time to convey lands until this is resolved?

6. D2 lands identified in Section III of the Cook Inlet Trade are

being conveyed to the State to protect fish and game values. Wouldn't the D2 classification provide the same protection? In the event the land did not get put into the D2 status, the lands would still be selectable by the State.

7. If the trade is desirable maybe the State should wait for the CIRI to get title to their lands, and then make a 2-way, rather than a 3-way exchange. This way the State would acquire only what it really needs.

8. The land the State is to receive in the Kamishak Bay area does not include the existing overland route to Lake Illiamna. I am not aware of the significance of State ownership to these mountainous lands, a R/W would probably be sufficient.

9. Does this agreement void out the requirement that the region must select the odd - odd - even - even townships in the 11(a)(1) withdrawal for the Chickaloon area? The agreement in Section IV states that these conveyances constitute CIRI full entitlement. This is a Bureau of Land Management problem.

10. From Bureau of Land Management concerns, I do not believe there are any valid 12(a) selections in the Talkeetna Mountain area where 4.5 townships of 12(b) selections are to be made available. Or does this agreement validate what the Bureau of Land Management considers to be invalid selections in that area? This again is a Bureau of Land Management problem.

11. It appears that the CIRI selection process can extend up to May 18, 1979.

12. Does this agreement really consolidate land ownership patterns for which the state is trying to accomplish?

13. Appendix C-3 identifies lands in an amount equal to 1/4 of the acreage entitlements. Is this acreage pool in addition to the five acreage pools identified in Appendix C-1 A thru E?

14. Do acreage entitlements under these terms and conditions conflict with the out-of-court settlement agreement between the Secretary and the Governor dated September 1, 1971? Is so what prevails?

15. Even though the State receives 2.5 times the acreage it is giving up, is it an equal value deal for the State?

16. How do we arrive at equal values? Is it possible to determine dollar values when such large acreage are involved and the subsurface minerals are unknown? Did the legislature intend that exchanges of this magnitude not include a documented formal appraisal?

17. A selection pool for CIRI is to be made up from federal surplus property, power sites and other reserves with certain exclusions.

But how about if the Eagle River Powersite withdrawal was included? These lands lie within the Chugach State Park boundary. The State would like to have the opportunity to include these lands in the State Park. There are other withdrawals that have simular impacts.

18. Federal lands at Point Woronzof, Point Campbell, Goose Lake and Campbell Tract are to be reserved by the United States for early conveyance to the State for park and recreation purposes. (See attached). This would then include the lands necessary for expansion of the North-South runway at Anchorage International Airport. Would the park and recreation restriction then preclude construction of this runway? Enlargement of the sewage treatment plant may also be effected. These lands are within 2 miles of the Anchorage City limits and would not have been selectable by CIRI regardless of the exchange agreement.

19. There is a surveyed school section 36 within the Campbell Tract. If this Section is conveyed under the Recreation and Public Purposes Act, is the Permanent School Endowment Fund precluded from revenues from what was originally authorized? If this removes the School Section identity, then the States appeal to the Interior Board of Land Appeals may be weakened regarding the school sections within the Tongass National Forest that have been selected by some of the Southeast native villages.

20. I have represented the State in working on a land use plan for the Campbell Tract. This process has been continuing for the last 10 months. Conveyance of the Tract under the Recreation and Public Purposes Act will serve the public interest as long as the Far North Bicentennial Park master development plan remains flexible enough to provide for revisions to meet the community needs. In all probability these lands would have remained available for state selection.

21. The Attorney Generals office has on different occasions provided the Division of Lands with opinions regarding the transfer of state land. Regardless of the granting authority, the processes of AS 38.05 pertaining to review and discussion (AS 38.05.305), appraisal (AS 38.05.310), public notice (AS 38.05.345) and the mineral reservation (AS 38.05.125) are required. If the State legislature is going to approve this land exchange, it would be most expedient if remedial legislation could be included to void the necessity of these actions for the instance. It seems nonsensical to me if we must review and discuss the land parcels to conveyed to the Bureau of Land Management if the local planning authorities do not have a veto power. The same question can be raised in regard to appraisal. If the legislature determines this is an equal value exchange, why perform an appraisal. Compounding the appraisal problem is the impossibility to determine the fair market value of large blocks of land or the mineral estate value of unknown mineral quanities. Public Notice as required in AS 38.05.345 will also serve little purpose if the legislative directive is to exchange the land. In order to clear the hurdle involving the mineral reservation legislative relief is required.

From the standpoint of Division regulations, all lands, except for minerals disposal, must be classified (11 AAC 52). This again is a papermill exercise if the legislature gives the direction to make the exchange.

22. What is the action the legislature must take? Must you give approval to the exchange in its entirety, reject it in its entirety or can you approve it with modifications? Even though a side agreement may be possible between the State and CIRI, there are problems with the State and Federal involvement that will not be cured.

23. If action is taken to approve the exchange, a fiscal note would be in order. With the complex tracking that will be required, several people will be spending 100% of their time on implementation of the exchange. A major impact on expense will be the amount of work required as listed in item 21 above.

Respectfully submitted,

Dale P. Tubbs
Deputy Director
Alaska Division of Lands

Attachments

appropriation, funds necessary to carry out its functions under this section. (§ 4 ch 70 SLA 1972)

Editor's note. — Prior to the 1973 relocation of this chapter, this section appeared as AS 38.15.050.

Section 1, ch. 70, SLA 1972, provides: "Purpose. It is the purpose of this Act to implement the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) by amending state law to resolve those ambiguities, conflicts and problems directly or impliedly created by the enactment by Congress of the Alaska Native Claims Settlement Act. It is also the purpose of this Act to complement through state policy, in a reasonable and fair manner, the federal policy expressed in that Act."

Legislative committee report.—For report on ch. 70, SLA 1972 (CSHB 731), see 1972 House Journal, p. 837.

Sec. 38.95.060. Exchange of land. (a) With the consent of the governor, a corporation organized under Alaska law pursuant to the federal Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) which would otherwise be entitled to select land within the area withdrawn by sec. 11(a)(1)(A) and (B) of the federal Act, which, however, has been selected by and patented to the state before December 18, 1971, may obtain up to 23,040 acres of this land, if it has not been disposed of or developed, by exchanging land or interests in land with the state.

(b) An individual Native (as defined in the federal Act) or a corporation referred to in (a) of this section may exchange land or an interest in land with any other individual Native or corporation referred to in (a) of this section or the state for the purpose of effecting land consolidations or to facilitate the management or development of the land.

(c) Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged. (§ 4 ch 70 SLA 1972)

Editor's note. — Prior to the 1973 relocation of this chapter, this section appeared as AS 38.15.060.

Legislative committee report.— For report on ch. 70, SLA 1972 (CSHB 731), see 1972 House Journal, p. 837.

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

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

(ii) federal surplus property;

(iii) revoked federal reserves;

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

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

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

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

(b) The State shall be advised of all properties located within the exterior boundaries of Cook Inlet Region to be placed in the pool described in subparagraph 2(a) and may require Secretarial consultation with the Joint Land Use Planning Commission with respect to any specific piece of property so included, except those in subparagraph 2(a)(i) hereof, to determine whether private ownership of such property would be incompatible with reasonable land-management principles; provided, that the Secretary shall not be bound by any recommendation of the Joint Land Use Planning Commission. The Secretary shall notify the State, CIRI and the Commission of his decision in writing. The State may conclusively object to the inclusion in the pool of up to 1,500 of the acres, described in paragraph 2(a)(i) and 2(a)(iv), and additional lands within these two categories may be excluded from the pool upon replacement by the State with lands of equal values. Lands not included in the pool as result of the State's conclusive objection or which have been replaced by the State under this subparagraph shall, immediately upon their exclusion or replacement from the pool thereby, be made available by the Secretary to the State for selection under the Alaska Statehood Act for a period of 90 days to the exclusion of all competing claims or parties.

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

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

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

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

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

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

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

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

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

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

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

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

57-000—75——6

BLM Alaska

February 9, 1976

Briefing Statement

CAMPBELL TRACT AS AFFECTED BY

PUBLIC LAW 94-204

The Act of January 2, 1976 (PL 94-204), an amendment to ANCSA, has the following effects on Campbell Tract.

1. After ratification of the Act by the Alaska State Legislature, the Campbell Tract lands can transfer to the State of Alaska, but not before December 18, 1976.

2. The lands will transfer under the procedures of the Recreation and Public Purposes Act (44 Stat. 741) without consideration or the 640 acre limit, and must be used for public parks, recreation, and public purposes.

3. Use and development will be in accordance with the "Generalized Land Use Plan" as outlined in the September 1974 Greater Anchorage Area Borough Far North Bicentennial Park Master Plan.

4. BLM may reserve up to 1000 acres within the Tract for present needs.

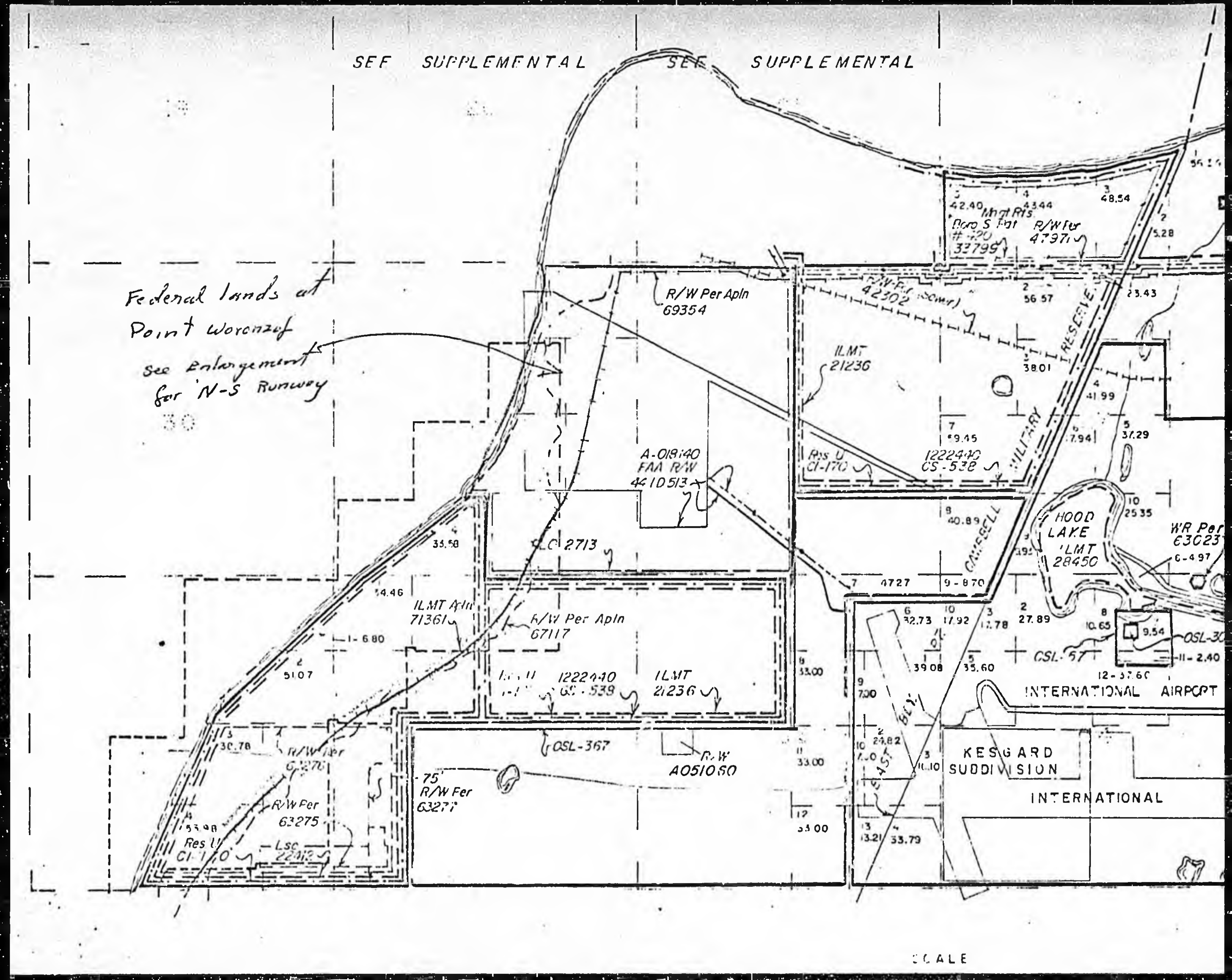
5. Present valid and existing rights within the Tract will continue (State Highways, National Guard, City water well permits, Chugach Electric rights-of-way, etc.)

Significant acreages within the 5120 acre area known as Campbell Tract which will not transfer under this act are:

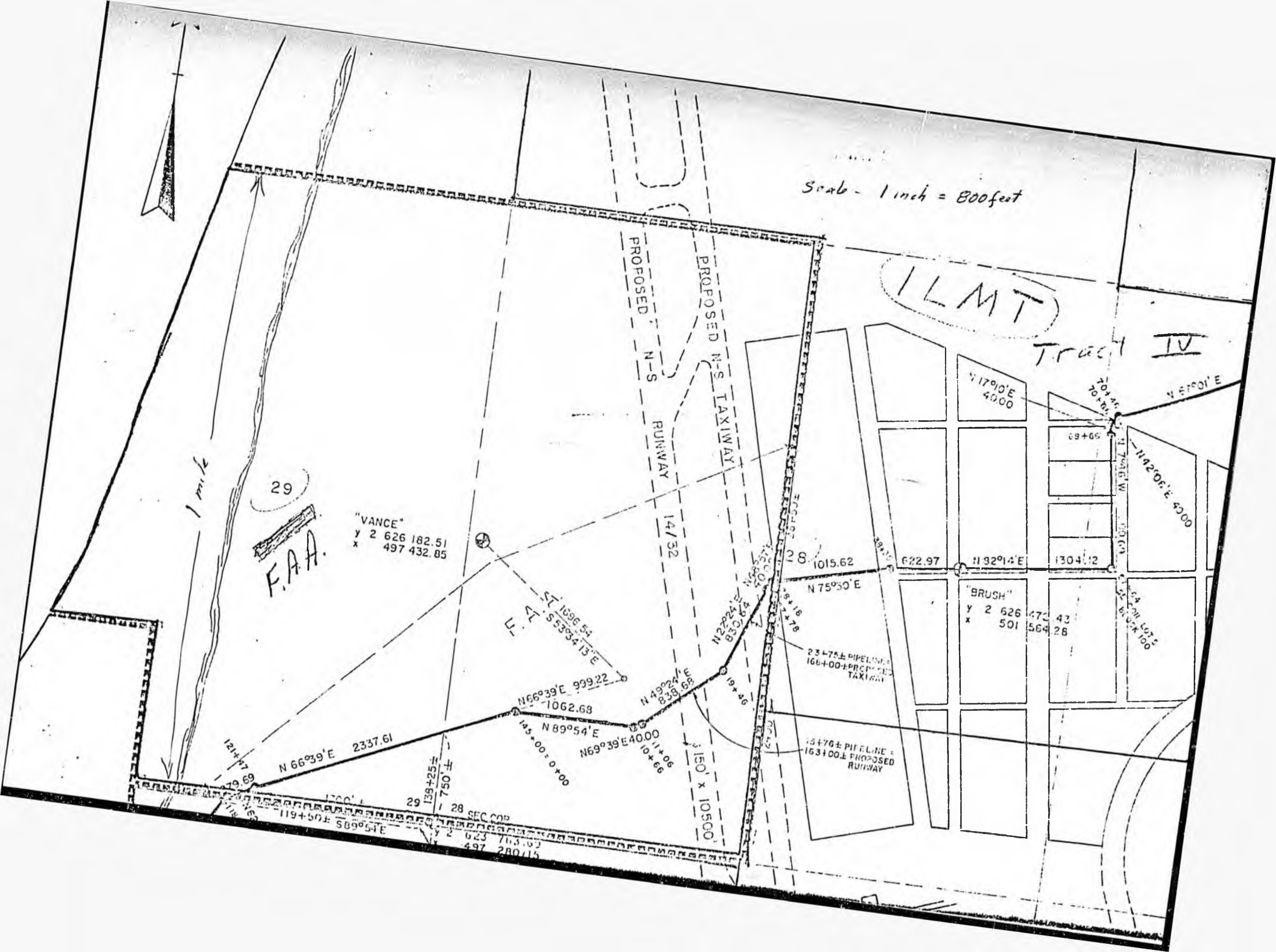
BLM	- 1000 acres
State Highways	- 40 acres
National Guard	- 50 acres
Total	1090 acres

6. The Act does not specify that Campbell Tract will ultimately be transferred to Anchorage for management and development, but this has been the long range goal and is still a valid precept.

7. A slightly revised generalized land use plan by the State, City, and BLM is in draft stages. Upon public exposure, finalization and acceptance by the State, City and BLM, the revised plan may be used to replace the Borough plan as the covenant in the land transfer.



SEE SUPPLEMENTAL
SEE SUPPLEMENTAL
Federal lands at Point Woronzof
See Enlargement for 'N-S Runway
R/W Per Apln 69354
ILMT 21236
A-018140 FAA R/W 4410513
Res U CI-170
1222440 CS-538
HOOD LAKE
ILMT 28450
WR Per 63023
ILMT Apln 71361
R/W Per Apln 67117
1222440 CS-538
ILMT 21236
OSL-367
R/W A051060
75' R/W Per 63277
R/W Per 63275
Res U CI-170
Lsc 22412
CSL-57
INTERNATIONAL AIRPORT
KESGARD SUBDIVISION
INTERNATIONAL
MILITARY RESERVE
SCALE



Scale - 1 inch = 800 feet
ILMT
Tract IV
PROPOSED N-S TAXIWAY
PROPOSED N-S RUNWAY 14/32
150' x 10500'
"BRUSH"
y 2 626 472.43
x 501 564.28
"VANCE"
y 2 626 182.51
x 497 432.85
F.A.A.
29
28
1 mile
N 67°01' E
N 42°06' E 40.00
N 17°10' E 40.00
1304.12
N 32°14' E
622.97
1015.62
N 75°30' E
N 22°24' E
830.64
19+46
N 49°24' E
838.68
N 69°39' E 40.00
11+06
10+66
N 89°54' E
1062.68
N 66°39' E 999.22
145+00 = 0+00
N 66°39' E 2337.61
121+47
23+75± PIPELINE
166+00± PROPOSED TAXIWAY
15+76± PIPELINE
163+00± PROPOSED RUNWAY
138+25±
750' ±
119+50± S89°54' E
28 SEC COR

Article 10. Parks and Recreation Areas.

Section
295. Parks and recreation areas

Sec. 38.05.295. Parks and recreation areas. The commissioner shall establish a policy and prescribe rules and regulations by which parks and recreation areas, including public scenic overlooks and cultural sites, shall be developed and managed in a manner that will best serve the interests of the people of the state. The commissioner may classify public lands as parks, scenic overlooks, cultural sites and recreation areas as long as the general intent of this chapter is maintained. (§ 1 art XII ch 169 SLA 1959)

Am. Jur. and ALR references.—39 Am. Jur., Parks, Squares and Playgrounds, § 1 et seq.; 42 Am. Jur., Public Lands, § 1 et seq.

Uses to which park property may be devoted; power of legislature or state officers, 18 ALR 1266; 63 ALR 492; 144 ALR 509.

Article 11. Miscellaneous Provisions.

Section
300. Classification of lands
305. Review
310. Notice and appraisal
315. Public and charitable use
320. Occupied tidelands and submerged lands
325. Homestead entry
330. Permits
335. Deposits
340. Assignment
345. Notices
347. Transfer of state land to cities
348. Grants of land after natural disaster
349. Disposition of state land for flood control projects

Sec. 38.05.300. Classification of lands. The director shall make a preliminary classification for surface use of all lands in areas where he considers it necessary and proper for future development. The classification, together with a land use plan, shall be transmitted to the commissioner for his approval, modification, or rejection. This section does not prevent reclassification of lands where the public interest warrants reclassification, nor does it preclude multiple purpose use of lands whenever different uses are compatible. No state land, water, or land and water area shall, except by act of the state legislature, be closed to multiple purpose use, if the area involved contains more than 640 acres. (§ 1 art III ch 169 SLA 1959; am § 2 ch 31 SLA 1961)

Cross reference.—As to state land and water restricted to use as public recreation areas and state parks, see AS 41.20; ch. 26, SLA 1967, Temporary and Special Acts, which creates the Chena River Recreation Area; ch. 61, SLA 1966, Temporary and Special Acts, which creates the Nancy Lake State Recreation Area.

See AG letter of 4/23/75

Sec. 38.05.305. Review. Except for land disposed of under §§ 315—325 of this chapter, no land in or adjacent to an incorporated municipality or other organized community may be sold or leased, or a renewal lease issued, until the proposed use of the land has been studied and reviewed jointly by the director and local authorized planning agencies. (§ 2 art III ch 169 SLA 1959)

Sec. 38.05.310. Notice and appraisal. No land may be sold or leased, or a renewal lease issued without public notice, except in the case of an oil or gas or mineral lease, unless it has been appraised within 90 days before the date fixed for the sale or lease. When land is offered at public sale but is not sold and is available at private sale, no reappraisal is required unless the director considers that a change in value of the lands may have occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than the approved, appraised market value, except as provided in §§ 315 and 320 of this chapter and §§ 75—85 of this chapter. (§ 3 art III ch 169 SLA 1959; am § 5 ch 61 SLA 1960)

Sec. 38.05.315. Public and charitable use. (a) The lease, sale, or other disposal of state land or resources may be made to a state or federal agency or political subdivision, or the lease, sale, or other disposal of coal deposits suitable for mining may be made to a utility owned and operated by a government agency or nonprofit cooperative association organized to participate under the Federal Rural Electrification Act for the purpose of generating electric power and energy or the production of process steam, or both, for less than the appraised value as determined by the director and approved by the commissioner to be fair and proper and in the best interests of the public, with due consideration given to the nature of the public services or function rendered by the agency, subdivision, or utility making application, and of the terms of the grant under which the land was acquired by the state.

(b) Notwithstanding §§ 70—80, 95, and 100 of this chapter the director, upon application filed by an applicant eligible under (b)—(d) of this section, may, by negotiation and without public auction in the manner prescribed in (b)—(d) of this section, lease state land for a term of not more than 55 years. Before leasing, the director shall prepare a land use plan and a land classification to insure that the proposed use is compatible with area utilization. Before the land may be leased under (b)—(d) of this section, it must be shown to the satisfaction of the director that the land is to be used for an established or definitely proposed project, and that the eligible applicant has the financial ability to carry out the project. The commissioner may establish limitations on the acreage which may be leased under (b)—(d) of this section to an applicant.

(c) Eligible applicants under (b)—(d) of this section are

sustained yield principle, subject to preference among other beneficial uses. The director may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms which he considers are in the best interests of the state, subject to the approval of the commissioner. However, not more than 500 M.B.M. of timber or more than $2,500 of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one-year period.

(b) Negotiated sales for timber or materials not exceeding a value of $250 are exempt from the provisions of AS 34.15.150. (§ 2 art VI ch 169 SLA 1959; am § 1 ch 66 SLA 1969)

Sec. 38.05.120. Disposal procedure. Timber and other materials shall be sold either by sealed bids or public auction, depending on which method is determined by the commissioner to be in the best interests of the state, to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit the amount specified in the terms of sale. The means by which the amount of deposit is determined shall be prescribed by appropriate regulation. The director or his representative shall immediately issue a receipt containing a description of the timber or materials purchased, the price bid, and the terms of sale. The receipt shall be acknowledged in writing by the bidder. A contract of sale, on a form approved by the attorney general, shall be signed by the purchaser and, following the approval of the commissioner, the contract shall be signed by the director on behalf of the state. The director, with the approval of the commissioner, may impose conditions, limitations, and terms which he considers necessary and proper to protect the interests of the state. Violation of any provision of this chapter or the terms of the contract of sale subjects the purchaser to appropriate legal action. (§ 3 art VI ch 169 SLA 1959; am § 13 ch 61 SLA 1960; am § 3 ch 137 SLA 1962; am § 1 ch 200 SLA 1970)

Article 5. Reservation of Rights to Alaska.

Sec. 38.05.125. Reservation. Each contract for the sale, lease or grant of state land, and each deed to state land, properties or interest in state land, made under §§ 315—325 of this chapter or §§ 45—120 of this chapter, except for those lands originally acquired by purchase, exchange, condemnation, gift, escheat or foreclosure are subject to the following reservations: "The party of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved." (§ 1 art VII ch 169 SLA 1959; am § 14 ch 61 SLA 1960; am § 1 ch 42 SLA 1966)

Legislative committee report.—For report on ch. 42, SLA 1966 (HB 387 am), see 1966 House Journal, p. 492.

Sec. 38.05.130. Damages and posting of bond. No rights shall be exercised by the state, its lessees, successors or assigns under the reservation as set out in § 125 of this chapter or until the state, its lessee, successors, or assigns make provisions to pay to the owner of the land full payment for all damages sustained by the owner, by reason of entering upon the land. If the owner for any cause refuses or neglects to settle the damages, the state, its lessees, successors, assigns, or an applicant for a lease or contract from the state for the purpose of prospecting for valuable minerals, or option contract or lease for mining coal or lease for extracting petroleum or natural gas, may enter upon the land in the exercise of the reserved rights after posting a surety bond determined by the director, after notice and an opportunity to be heard, to be

PART 6. LANDS

Chapter

CHAPTER 52. LAND PLANNING AND CLASSIFICATION

Section

11 AAC 52.010. SHORT TITLE. This chapter pertains to the classification of lands of the State of Alaska under the jurisdiction of the Division of Lands, Department of Natural Resources, and related matters. The intent of this chapter is to establish a system of land classification which will encourage the maximum development and utilization of all of Alaska's land resources consistent with the public interest. This chapter may be referred to as the "Land Planning and Classification Regulations." (Eff. 7/1/60, Reg. 1; am 5/23/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.300
AS 41.20.020

11 AAC 52.020. UNCLASSIFIED LANDS. All lands shall, upon transfer to the state's jurisdiction, be unclassified in status. The disposal of minerals only shall be permitted on unclassified lands. All other disposals of lands and resources shall be permitted only after the lands have been classified. (Eff. 7/1/60, Reg. 1; am 5/23/64, Reg. 16)

Authority: AS 38.05.020
AS 38.05.300
AS 41.20.020

11 AAC 52.030. CLASSIFICATION. Lands shall be classified into one or more of the following categories: agricultural lands, commercial lands, grazing lands, industrial lands, material lands, mineral lands, private recreation lands, public recreation lands, reserved use lands, residential lands, timber lands, utility lands, watershed lands, resource management lands or open-to-entry lands.

Classification shall become effective upon the noting of such classification upon the public records maintained by the division.

The classification of lands as agricultural lands, commercial lands, industrial lands, private recreation lands, public recreation lands, reserved use lands, residential lands, watershed lands, resource management lands or open-to-entry lands shall close said lands to the removal of minerals therefrom, except upon the issuance of a mineral or mining lease or permit for such removal. No classification, however, shall preclude the disposal of timber and materials unless deemed inconsistent with the

Alaska State Legislature

Senate

JUNEAU, ALASKA

March 4, 1976

MEMORANDUM

TO: ALL MEMBERS

FROM: SENATOR KAY POLAND

We have received copies of the Complaint and Memorandums filed against the Cook Inlet Land Trade in Anchorage Superior Court, and they are hereby transmitted for your information.

These documents, together with the comments of Dave Jackman and Michael Smith, sent you earlier, should give you a reasonable resume of the basic issues.

The earlier packet contained a transcript of the Anchorage testimony plus written material received since that date. Tapes of the Juneau testimony are available but not transcribed because of repetition.

The entire matter will be calendared early next week. The Senate Resources Committee has endeavored to secure testimony from every source for your information.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

J. R. LEWIS and HAROLD H. GALLIETT, JR., Citizens and Taxpayers of the State of Alaska,

Plaintiffs,

vs.

STATE OF ALASKA; GOVERNOR JAY HAMMOND; GUY R. MARTIN, Commissioner of Natural Resources; MICHAEL C. T. SMITH, Director, Division of Lands,

Defendants.

No. 76-1608

COMPLAINT FOR DECLARATORY JUDGMENT AND PERMANENT INJUNCTION

Plaintiffs, HAROLD H. GALLIETT, JR. and J. R. LEWIS, citizens and taxpayers of the State of Alaska, pursuant to Alaska Civil Rule 23, and on behalf of all citizens and taxpayers of the State, complain and allege as follows:

COUNT ONE

I

Plaintiffs have been and now are residents, citizens and taxpayers of the State of Alaska and reside in Anchorage, Alaska. Defendants are the State and its Governor, Commissioner of Natural Resources and Director of Division of Lands.

II

Plaintiffs are commencing this action in order to permanently enjoin the state from participating in an exchange of lands involving the alienation of subsurface mineral rights belonging to all the people of the State of Alaska. This

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3rd AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-9477

attempted alienation is in violation of the Constitution of the United States, the Constitution of the State of Alaska, the Alaska Statehood Act, and Title 38, Alaska Statutes.

III

In 1955 the then Territory of Alaska, through its legislature, provided for a constitutional convention. Elected delegates adopted a constitution on February 5, 1956 which was ratified by the people of Alaska on April 24, 1956.

IV

This constitution adopted by the people of Alaska served as a basis for subsequent petitions to Congress for statehood and constituted an offer to accept the privileges and responsibilities of that status in accordance with the terms of said constitution.

V

Article VIII, Section 9 of the Constitution of the State of Alaska provided in part as follows:

> Section 9. Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources.

VI

Two years after the people of Alaska adopted the above constitutional provisions, Congress passed the Alaska Statehood Act, approved on July 7, 1958. Sec. 6(i) of the Statehood Act is a direct response by Congress to the provisions contained in Article VIII, Sec. 9 of the Alaska Constitution set forth above. The Alaska Statehood Act stated in this section as follows:

> All grants made or confirmed under this Act shall include mineral deposits. The

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-6477

> grants of mineral lands to the State of Alaska under subsections (a) and (b) of this section are made upon the express condition that all sales, grants, deeds, or patents for any of the mineral lands so granted shall be subject to and contain a reservation to the State of all of the minerals in the lands so sold, granted, deeded, or patented, ...

Sec. 6(i) of the Act further provided that any lands or minerals disposed of by the State of Alaska contrary to the provisions of the above section would be forfeited to the United States by appropriate proceedings instituted by the Attorney General.

VII

By Public Law 92-203, 85 Stat. 688, approved December 18, 1971, Congress enacted the Alaska Native Claims Settlement Act. This Act provided for the fair and just settlement of all claims by native groups in Alaska based upon their aboriginal land claims. All prior conveyances of public land pursuant to federal law and all tentative approvals pursuant to Sec. 6(g) of the Alaska Statehood Act were declared to be an extinguishment of the aboriginal title of Alaska natives. The Act further provided for 12 geographic regions within the State and for appropriate regional native corporations which were given the right to select land and share in the revenues from the sale of minerals. Sec. 12 of the Alaska Native Claims Settlement Act provided for the selection of land by each village corporation within the township in which the village is located, plus an area that would make the total selection equal to the acreage to which the village was entitled under Sec. 14 of the Act.

VIII

Because of existing federal withdrawals, state land selection and other non-native settlement patterns within the Cook

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3rd AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-3477

Inlet region, Cook Inlet Region, Inc., a native corporation, was not able to select lands which it considered of like and similar character under the formula established by the Alaska Native Claims Settlement Act. For approximately three years following the enactment of this Act, Cook Inlet Region, Inc. negotiated with the Secretary of the Interior in an attempt to insure its land selection of a similar and like character.

IX

Cook Inlet Region, Inc. was dissatisfied with these negotiations with the United States Department of the Interior, and it filed suit in a District Court. Negotiations continued, however, and the solicitor for the Department of Interior made an offer to convey to Cook Inlet Region, Inc. ten surface and fifteen subsurface townships within the Kenai National Moose Range, including the Swanson River oilfield, as well as additional federal lands in the then Greater Anchorage Area Borough. These lands included land at Point Woronzof, Point Campbell, and a sizable portion of the Campbell air strip tract. Cook Inlet Region, Inc. declined this offer and it was later withdrawn by the Department of the Interior.

X

The United States District Court ruled in favor of the Secretary of the Interior and against Cook Inlet Region, Inc. in February of 1975. Pending the appeal of the case to the Ninth Circuit Court of Appeals, Cook Inlet Region, Inc. appealed to Congress for legislative relief. Despite the fact that Cook Inlet Region problems were solely with and concerning the federal government and federal land, the State entered into the negotiations in an attempt to help solve the problems between the Cook Inlet Region and the federal government.

RAYMOND A. NESBETT
ATTORNEY AT LAW
657 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-3477

X

The United States District Court ruled in favor of the Secretary of the Interior and against Cook Inlet Region, Inc. in February of 1975. Pending the appeal of the case to the Ninth Circuit Court of Appeals, Cook Inlet Region, Inc. appealed to Congress for legislative relief. Despite the fact that Cook Inlet Region problems were solely with and concerning the federal government and federal land, the State entered into the negotiations in an attempt to help solve the problems between the Cook Inlet Region and the federal government.

XI

The State, Cook Inlet Region, Inc., and the Department of the Interior entered into the negotiations concerning the exchange of lands pursuant to Sec. 22(f) of the Alaska Native Claims Settlement Act which provided as follows:

> The Secretary, the Secretary of Defense, and the Secretary of Agriculture are authorized to exchange any lands or interests therein in Alaska under their jurisdiction for lands or interests therein of the Village Corporations, Regional Corporations, individuals, or the State for the purpose of effecting land consolidations or to facilitate the management or development of the land. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

XII

Pursuant to the exchange provisions cited above, the State volunteered the trade of various patented lands to the Department of the Interior for exchange and grant to the Cook Inlet Region, Inc. The terms of the settlement were, in summary, that the State of Alaska obligated itself to convey lands to the United States for exchange with Cook Inlet Region, Inc. in accordance with "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" made a part of the report from

RAYMOND A. NESBETT
ATTORNEY AT LAW
937 WEST 3rd AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-0437

the Committee on Interior and Insular Affairs accompanying HR 6644, the amendment to the Alaska Native Claims Settlement Act. Further, Cook Inlet Region, Inc. was to dismiss its lawsuit in the case of Cook Inlet v. Kleppe, 75-2232, Ninth Circuit Court of Appeals; and other native village selections under Sec. 12 of the Settlement Act concerning lands within Lake Clark, and other areas outside the Cook Inlet Region, Inc., would be withdrawn to enable the exchange to take place by substituting land outside Cook Inlet region. These terms are summarized in Sec. 12(a) of Public Law 94-204, known as Alaska Native Claims Settlement Act Amendments, approved January 2, 1976. Sec. 12(f) of the Amendments states that all conveyances of lands made or to be made by the State of Alaska in satisfaction of the Terms and Conditions "shall pass all of the state's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to Sec. 22(f) of the Settlement Act."

XIII

Sec. 17 of the Amendment purports to amend Sec. 22(f) of the Alaska Native Claims Settlement Act by stating that in any exchange made pursuant to Sec. 22(f), the State may convey its lands, "free of the restrictions of Sec. 6(i) of the Alaska Statehood Act."

XIV

In the "Terms and Conditions" contained within the report accompanying HR 6644, Sec. II at P. 42, the State of Alaska was asked to give its consent to the exchange and settlement agreement within sixty days of the commencement of the 1976 session of the Alaska State Legislature. Upon such consent being given, the State of Alaska is bound to convey to the United States for reconveyance to Cook Inlet Region, Inc. the lands set forth

RAYMOND A. NESBETT
ATTORNEY AT LAW
537 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-0477

within the "Terms and Conditions." Plaintiffs allege on information and belief that said consent must be given, if at all, prior to March 12, 1976.

XV

In an attempt to implement Sec. 22(f) of the Alaska Native Claims Settlement Act, the Alaska legislature, in 1972, enacted what is now Sec. 38.95.060 Alaska Statutes which authorizes the exchange of state land with a native corporation "with the consent of the governor," when the purpose is to effect land consolidations or to facilitate the management or development of the land. Similar to ANCSA, Sec. 22(f), the Alaska Statute provided that exchanges shall be on the basis of equal value, with either party being allowed to accept or pay cash in order to equalize the value of the properties exchanged.

XVI

The governor and the State, through its Commissioner of Natural Resources and Director of the Division of Lands, is proposing to give away large parcels of land and is also proposing to convey the subsurface mineral rights in such a manner as would convey all the coal, oil and gas resources of the lands. The State is proposing to give away the following estimated resources:

Present value of coal	$4,732,000,000
Minimum probable present value of oil and gas	62,500,000
Present value of surface estate	451,695,000
TOTAL	$5,246,195,000

The State proposes to receive the following estimated value as a result of the exchange:

Present value of surface estate	165,917,440

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 2ND AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-3477

From the above summary of the exchange values, the net result to the State of Alaska is as follows:

Net loss $5,080,187,560

XVII

The proposed conveyance violates the Alaska Constitution and its compact with the federal government through the Alaska Statehood Act. The Alaska Constitution and the Alaska Statehood Act prohibit any conveyances, deeds, grants or sales of state lands without reservations to all the people of the State of the mineral rights contained therein.

XVIII

The exchange of land as proposed by the Hammond Administration fails to effect land consolidations or to facilitate the management or development of the land as required by A.S. 35.95.060.

XIX

There is no adequate remedy at law for plaintiffs and the taxpayers and citizens of the State of Alaska to effect redress should this illegal conveyance take place. Damages could be astronomical for the replacement of the values of the coal, oil and gas reserves and resources. In any event, damages would have to come from the treasury of the State of Alaska, which consists of assets already owned by the people of the State. If this proposed exchange is not permanently enjoined, the plaintiffs and other citizens and taxpayers of the State of Alaska will suffer irreparable harm on the magnitude of billions of dollars in lost resources.

COUNT TWO

I

Plaintiffs reallege Paragraphs I through XIX of their First Count herein.

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-6477

II

Article VIII, Sec. 9, Constitution of the State of Alaska, subject to the reservation to the State of all resources, allows the Legislature to provide for the sale or grant of state lands, or interests therein, and specifically allows for the establishment of sales procedures.

III

Pursuant to this constitutional authority, the Alaska legislature in Sec. 38.05.045, Alaska Statutes, provided in part as follows:

> All lands owned in fee by the state or to which the state may become entitled, excepting tide, submerged or shorelands, and timber or grazing lands, may be sold as provided in §45-69 of this chapter.

IV

Sec. 38.05.055, Alaska Statutes, states in part as follows:

> Except as provided in §315(d) of this chapter, the sale shall be made at public auction to the highest qualified bidder as determined by the director.

Sec. 38.05.125 A.S. states that each contract for the sale, lease or grant of state land, and each deed to state land, properties or interest in state land, made under Sec. 315-325 of this chapter or Sec. 45-120 of this chapter, . . . is subject to the reservation that the State of Alaska "expressly saves, excepts, and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, ..."

VI

Sec. 38.05.310, Alaska Statutes, states that no land may be sold or leased for less than the approved, appraised market value.

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 2nd AVENUE
ANCHORAGE, ALASKA 99501
Telephone (907) 272-3477

VII

If Sec. 38.05.125, Alaska Statutes, providing for the reservation to the State of all mineral rights, is not in violation of Article VIII, Sec. 9, Constitution of Alaska, the reservation must apply to all authorized and legal state sales or grants in accordance with the contractual and compact provisions of Article VIII, Sec. 9, Constitution of Alaska and Sec. 6(i) of the Alaska Statehood Act. In this event, Sec. 38.95.060, Alaska Statutes, providing for the exchange of land with a native corporation would not be in accordance with the public auction and competitive bid requirements set forth in Sec. 38.05.045-120, Alaska Statutes.

VII

If the State is assuming for the purposes of the proposed exchange transaction that Sec. 38.95.060 (exchange provision) is outside the scope of the auction and competitive bidding provisions, and outside the reservation of mineral rights provisions, then Sec. 38.95.060 and Sec. 38.05.125 are in violation of Article VIII, Sec. 9 of the Alaska Constitution and the compact provisions between the Constitution and the Alaska Statehood Act. The proposed exchange is, therefore, illegal.

COUNT THREE

I

Plaintiffs reallege Paragraph I through XIX of their First Count herein.

II

Article VIII, Sec. 10 of the Constitution of the State of Alaska states as follows:

> No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

RAYMOND A. ... ISETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-3479

Although the State has conducted numerous hearings on the proposed land trade, the actual lands to be made the subject of the trade with the native corporation have not yet been determined. In accordance with Sec. 12(b) of the Amendments of ANCSA, and the "Terms and Conditions," the Cook Inlet region is allowed to select lands from various "pools." How much of the Beluga coal land and other lands now belonging and patented to the State will be selected from these "pools", and the exact location and value of such lands, still has yet to be determined and probably will not be determined until long after the Governor gives his consent.

III

The public notice requirements of Article VIII, Sec. 10 of the Alaska Constitution have not been complied with insofar as said provisions must require that notice not only be given of the exchange, but of the value and appraisals of the resources and surface rights contained therein, and the exact nature of the trade so as to give the public real notice of what is contemplated in terms of economic impact to the State Treasury now and in the future. Without these additional facts, notice is meaningless and ineffective.

IV

Article VIII, Section 10 also requires "other safeguards of the public interest as may be prescribed by law" as a part of a notice requirement prior to disposal of state lands. Plaintiffs allege that the terms of the proposed sale to this date remain indeterminate, indefinite, and of such an ambigoous nature that the public has received inadequate notice of the economic consequences of the proposed exchange. Even the legislature is unable to prescribe safeguards because it, like the plain-

RAYMOND A. NESBETT
ATTORNEY AT LAW
657 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-4477

tiffs, has no exact knowledge of specific lands and resources involved. The proposed exchange, therefore, violates Article VIII, Section 10, Constitution of the State of Alaska.

COUNT FOUR

I

Plaintiffs reallege Paragraph I through XIX of their First Count herein.

II

Article VIII, Section 17, Constitution of the State of Alaska, provides as follows:

> Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

III

Plaintiffs allege that the proposed land trade involving the Cook Inlet region violates Article VIII, Section 17 of the Alaska Constitution in that the trade or exchange will result in valuable state resources being conveyed to a private corporation for less than fair value and for the use and benefit of less than all citizens of the State of Alaska.

IV

The purported and invalid attempt on the part of Congress to waive provisions of the Alaska Statehood Act, requiring reservations of all minerals for the benefit of all citize of the State, and the purported and invalid attempt of the State to convey the mineral rights underlying state lands in violation of the State Constitution, results in the application of federal and state law which is not uniform and which does not apply to all citizens of the State equally. The State through the proposed exchange is violating the intent and purpose of Article VIII, Section 17, Constitution of the State of Alaska.

RAYMOND A. NESBETT
ATTORNEY AT LAW
[illegible] WEST 5TH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE [illegible]

COUNT FIVE

I

Plaintiffs reallege Paragraph I through XIX of their First Count herein.

II

Sec. 38.95.060, Alaska Statutes, providing for the exchange of state lands with lands owned by the regional corporation, cannot and does not purport to amend, change or waive the provisions of Article VIII, Sec. 9 of the Alaska Constitution and Sec. 6(i) of the Alaska Statehood Act, both of which require that all deeds or grants of state lands reserve to the State all mineral rights contained therein.

III

The purported land exchange between the State and the Cook Inlet Region, in addition to conveying subsurface mineral rights in violation of Article VIII, Sec. 9 of the Alaska Constitution and Sec. 6(i) of the Statehood Act, is also in excess of the authority set forth in Sec. 38.95.060, Alaska Statutes, which does not in any manner refer to subsurface mineral rights as a part of the exchange.

COUNT SIX

I

Plaintiffs reallege Paragraphs I through XIX of their First Count herein.

II

Sec. 6(i) of the Alaska Statehood Act in conjunction with Article VIII, Section 9 of the Alaska Constitution created a compact which thereafter and until amended according to law, guaranteed to all the people of the State of Alaska that the mineral resources of the State would be retained by the State and its citizens. The grant of lands from the federal government

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-0477

to the State was expressly conditioned upon the State preserving the mineral rights for all its citizens, and the State cannot now legally, without a proper vote of the people as required to amend the Alaska Constitution, convey said mineral rights and thereby bestow a special benefit on any person or corporation, public or private, at the expense of the citizens of Alaska.

III

The Alaska Statehood Act and the Alaska Constitution place the State in the position of trustee over the mineral resources of the citizens of the State, and the State cannot now legally abdicate its duty as trustee without the consent of its citizens any more than it could abdicate its police powers and duty to protect persons and their property.

COUNT ~~SIX~~ SEVEN

I

Plaintiffs reallege Paragraphs I through XIX of their First Count herein.

II

Sec. 38.95.060, Alaska Statutes, providing for the exchange of land, states that a corporation organized under Alaska law pursuant to the federal Alaska Native Claims Settlement Act may obtain "up to 23,040 acres of state land."

III

The purported land exchange between the State and the Cook Inlet Region purports to grant far in excess of 23,040 acres of state land; to the contrary, the proposed exchange would involve over 400,000 acres. Therefore, even if Sec. 38.95.060, Alaska Statutes, is a valid delegation of legislative authority to the Governor, the proposed exchange is not within the limitations imposed by this section.

RAYMOND A. NESBETT
ATTORNEY AT LAW
657 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
Telephone (907) 276-5477

Actually 495,360 acres of state patented land

COUNT ~~SEVEN~~ EIGHT

I

Plaintiffs reallege Paragraphs I through XIX of their First Count herein.

II

Sec. 38.95.060, Alaska Statutes, states as follows:

> (c) Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

III

The proposed exchange of lands between the State and Cook Inlet region are not based upon equal value. The State has not conducted adequate appraisals of the coal and other natural resources underlying the lands attempted to be exchanged in this transaction, and the State is proposing to give away coal resources which ultimately may be of more value and benefit to the State of Alaska than the resources underlying the Prudhoe Bay oil fields.

IV

The State is attempting to exchange state lands involving enormous coal resources in exchange for lands which, although useful for park and recreational purposes, contain little inherent value. Sec. 38.95.060(c) incorporates the concept of "cash" in equalizing values, and the actual monetary benefits and disadvantages should be the primary factor in determining equality in this proposed exchange. Although park and recreational lands do have value to the State, the enormity and magnitude of the economic value and benefit to the State of its mineral rights far outweigh any assertion on the part of the State that the proposed exchange is on the basis of equal value.

RAYMOND A. NESBETT
ATTORNEY AT LAW
627 WEST 3rd AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-3477

COUNT ~~EIGHT~~ NINE

I

Plaintiffs reallege Paragraphs I through XIX of their First Count herein.

II

Sec. 17 of the Amendments to the Alaska Native Claims Settlement Act, which purports to allow the State to convey its lands in conjunction with the Cook Inlet Region settlement free of the restrictions of Sec. 6(i) of the Alaska Statehood Act, is a unilateral attempt on the part of the Congress to waive and amend the compact provisions of the Statehood Act in order to obtain state lands and their underlying mineral rights for the sole purpose of effecting a federal settlement with the natives of Alaska.

III

The purported attempt of Congress in Sec. 17, to authorize the disposal of state lands contrary to the Alaska Statehood Act and the Alaska Constitution, is in violation of the Supremacy Clause of the Constitution of the United States. This clause declares that the laws of the United States shall be the supreme law of the land, but also directly limits the supremacy to that area solely within the sphere of lawful federal power and that area not reserved to the states by the Tenth Amendment.

IV

Amendment X of the Constitution of the United States specifically states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." The federal government, through its Congress, does not possess the constitutional authority to enact Sec. 17 of the Amendments,

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-8477

which is nothing more than an attempt to control the power or authority of the State of Alaska concerning the dispositions of its own lands. Congress determined in the Statehood Act the circumstances under which the State of Alaska would be admitted into the Union, but this did not and does not give Congress any power to change or modify, either directly or indirectly, the provisions of the Constitution of the State of Alaska.

VI

By the enactment of Sec. 17 of the Amendments, the Congress of the United States is violating the compact provisions of the Statehood Act which provide that upon the issuance of the proclamation of the President, the State of Alaska "is hereby declared to be a State of the United States of America, is declared admitted into the Union on an equal footing with the other states in all respects whatever, ..."

VII

Should the attempt of Congress pursuant to Sec. 17 of the Amendments be construed to be a valid exercise of federal authority concerning state lands, the State of Alaska would, in effect, be denied admission into the Union on equal footing. Any such attempt is, therefore, in violation of federal law.

COUNT ~~NINE~~ TEN

I

Plaintiffs reallege Paragraph I through XIX of their First Count herein.

II

Sec. 38.95.060 providing for the exchange of land with a native corporation, states that "with the consent of the governor, a corporation . . . may obtain up to 23,040 acres

RAYMOND A. NESBETT
ATTORNEY AT LAW
[illegible]
ANCHORAGE, ALASKA [illegible]
TELEPHONE [illegible]

of this land, if it has not been disposed of or developed, by exchanging land or interest in land with the State." This section further states that exchanges shall be on a basis of equal value.

III

The legislative delegation of authority to approve of exchanges of land granted to the governor pursuant to the above-cited statute is an unconstitutional and invalid delegation of legislative authority by virtue of insufficient standards, rules and regulations to govern the sale and exchange transaction contemplated therein.

IV

Sec. 38.05.035, Alaska Statutes, states that the Director of the Division of Lands shall " . . . (2) manage, inspect and control state lands and improvements on them belonging to the State and under the jurisdiction of the division;" . . . . The same section states that the Director shall" . . . (7) have jurisdiction over state lands . . . and shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights; . . . . "

V

Sec. 38.05.035, Alaska Statutes, further states that the power of the Director of the Division of Lands authorizes him . . . "(14) when he finds that the interest of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interest in them, . . . and no contract for the sale, lease, or other disposal of available lands or interest in them, is legally binding on the

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501

State until the commissioner formally records his consent to the contract; . . . . "

VI

Article VIII, Section 9, Constitution of the State of Alaska, authorizes the legislature to provide for the sale or grant of state lands, and establish sales procedures. Pursuant thereto the Alaska legislature delegated to the Department of Natural Resources, its Commissioner, and the Director of the Division of Lands the duty of making findings and determinations relating to the best interests and welfare of the State of Alaska. The legislature established sale procedures for the sale of state lands in Section 38.05.045 et seq.

VII

By virtue of Section 38.95.060, Alaska Statutes, the legislature is attempting to delegate the decision of making a land exchange concerning valuable state resources not to an administrative agency, but to the Governor, a single employee of the executive branch, contrary to the established sale procedures, regulations and statutes which give exclusive jurisdiction over the sale and disposal of state lands to the Director of the Division of Lands and the Commissioner of Natural Resources. There are no standards set forth in the exchange provisions governing the appraisal and determination of equal values, and there is not even a requirement that the consent of the governor be withheld until the exact lands involved have been identified and the exact appraisal and valuation of the exchange is made definite.

VIII

The legislature in Section 38.95.060, Alaska Statutes, is, pursuant to invalid federal legislation, attempting illegally

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-0629

to give away irreplaceable natural resources at the sole discretion of the Governor, thereby divesting the Division of Lands and its Director of its constitutional and statutory power to control and manage state lands through established procedures.

COUNT ~~TEN~~ ELEVEN

I

Plaintiffs reallege Paragraphs 1 through XIX of their First Count herein.

II

The proposed exchange attempts, through federal legislation to unilaterally waive or amend the Alaska Statehood Act; subverts the jurisdiction of the Division of Lands; disposes of lands without established and appropriate sale procedures; and denies the citizens of the State of Alaska the protection of Article VIII, Section 9 of their Constitution and its compact with the federal government pursuant to Section 6(i) of the Statehood Act. For these reasons the proposed exchange and its implementing legislation deprive plaintiffs and the citizens of the State of Alaska of their property and resources without due process of law in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States, and Article I, Section 7 of the Constitution of the State of Alaska. Further, the proposed exchange denies the citizens of Alaska of the equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States and Article I, Section 1, Alaska Constitution.

WHEREFORE, plaintiffs on their own behalf and on behalf of all of the citizens of the State of Alaska, pray for an order of this court granting them judgment declaring that the

RAYMOND A. NESBETT
ATTORNEY AT LAW
637 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-0477