

Calendar No. 700

103D CONGRESS
2D SESSION

S. 855

A BILL

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

SEPTEMBER 30 (legislative day, SEPTEMBER 12), 1994
Reported with amendments

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IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 19), 1993

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 30 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. JOHNSTON, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Alaska Peninsula Sub-
3 surface Consolidation Act of 1993”.

4 **SEC. 2. DEFINITIONS.**

5 As used in this Act:

6 (1) AGENCY.—The term agency—

7 (A) means—

8 (i) any instrumentality of the United
9 States; and

10 (ii) any Government corporation (as
11 defined in section 9101(1) of title 31,
12 United States Code); and

13 (B) includes any element of an agency.

14 (2) ALASKA NATIVE CORPORATION.—The term
15 “Alaska Native Corporation” has the same meaning
16 as is provided for “Native Corporation” in section
17 3(m) of the Alaska Native Claims Settlement Act
18 (43 U.S.C. 1602(m)).

19 (3) KONIAG.—The term “Koniag” means
20 Koniag, Incorporated, which is a Regional Corpora-
21 tion.

22 (4) KONIAG ACCOUNT.—The term “Koniag Ac-
23 count” means the account established under section
24 4.

1 (5) PROPERTY.—The term “property” has the
2 same meaning as is provided in section 12(b)(7)(vii)
3 of Public Law 94–204 (43 U.S.C. 1611 note).

4 (6) REGIONAL CORPORATION.—The term “Re-
5 gional Corporation” has the same meaning as is pro-
6 vided in section 3(g) of the Alaska Native Claims
7 Settlement Act (43 U.S.C. 1602(g)).

8 (7) SECRETARY.—Except as otherwise provided,
9 the term “Secretary” means the Secretary of the In-
10 terior.

11 (8) SELECTION RIGHTS.—The term “selection
12 rights” means those rights granted to Koniag, pur-
13 suant to subsections (a) and (b) of section 12, and
14 section 14(h)(8), of the Alaska Native Claims Settle-
15 ment Act (43 U.S.C. 1611 and 1613(h)(8)), to re-
16 ceive title to the oil and gas rights and other inter-
17 ests in the subsurface estate of the approximately
18 275,000 acres of public lands in the State of Alaska
19 identified as “Koniag Selections” on the map enti-
20 tled “Koniag Interest Lands, Alaska Peninsula”,
21 dated May 1989.

22 **SEC. 3. ACQUISITION OF KONIAG SELECTION RIGHTS.**

23 (a) IN GENERAL.—

24 (1) TENDER OF RELINQUISHMENT AND AC-
25 CEPTANCE.—If the Secretary receives from Koniag a

1 timely tender of relinquishment of the selection
2 rights, the Secretary shall—

3 (A) accept the tender not later than 60
4 days after the date of the receipt of the tender;
5 and

6 (B) notify the Secretary of the Treasury of
7 the acceptance of the tender.

8 (2) TIMELINESS.—

9 (A) IN GENERAL.—For the purpose of
10 paragraph (1) and subject to subparagraph (B),
11 a tender by Koniag shall be timely if the tender
12 is received by the Secretary not later than 180
13 days after the later of—

14 (i) the date of the receipt by Koniag
15 of the determination by the Secretary of
16 the value of the selection rights pursuant
17 to subsection (b); or

18 (ii) the date of the final resolution of
19 any dispute regarding the value of the se-
20 lection rights under subsection (b).

21 (B) MODIFICATION.—The Secretary and
22 Koniag may agree to modify the deadline estab-
23 lished under subparagraph (A).

24 (a) *The Secretary shall determine, pursuant to sub-*
25 *section (b) hereof, the value of Selection Rights which*

1 *Koniag possesses within the boundaries of Aniakchak Na-*
2 *tional Monument and Preserve, Alaska Peninsula National*
3 *Wildlife Refuge, and Becharof National Wildlife Refuge.*

4 (b) VALUE.—

5 (1) IN GENERAL.—The value of the selection
6 rights shall be equal to the fair market value of—

7 (A) the oil and gas interests in the lands
8 or interests in lands that are the subject of the
9 selection rights; and

10 (B) in the case of the lands or interests in
11 lands for which Koniag is to receive the entire
12 subsurface estate, the subsurface estate of the
13 lands or interests in lands that are the subject
14 of the selection rights.

15 (2) APPRAISAL.—

16 (A) SELECTION OF APPRAISER.—

17 (i) IN GENERAL.—Not later than 90
18 days after the date of enactment of this
19 Act, the Secretary and Koniag shall meet
20 to select a qualified appraiser to conduct
21 an appraisal of the selection rights. Sub-
22 ject to clause (ii), the appraiser shall be se-
23 lected by the mutual agreement of the Sec-
24 retary and Koniag.

1 (ii) FAILURE TO AGREE.—If the Sec-
 2 retary and Koniag fail to agree on an ap-
 3 praiser by the date that is 60 days after
 4 the date of the initial meeting referred to
 5 in clause (i), the Secretary and Koniag
 6 shall, by the date that is not later than 90
 7 days after the date of the initial meeting,
 8 each designate an appraiser who is quali-
 9 fied to perform the appraisal. The 2 ap-
 10 praisers so identified shall select a third
 11 qualified appraiser who shall perform the
 12 appraisal.

13 (B) STANDARDS AND METHODOLOGY.—
 14 The appraisal shall—

15 (i) be conducted in conformity with
 16 the standards of the Appraisal Foundation
 17 (as defined in section 1121(9) of the Fi-
 18 nancial Institutions Reform, Recovery, and
 19 Enforcement Act of 1989 (12 U.S.C.
 20 3350(9)); and

21 ~~(ii) utilize the methodology customar-~~
 22 ~~ily used by the Minerals Management~~
 23 ~~Service of the Department of the Interior.~~

24 *(ii) utilize risk adjusted discounted*
 25 *cash flow methodology.*

1 (C) SUBMISSION OF APPRAISAL REPORT.—
2 Not later than 180 days after the selection of
3 an appraiser pursuant to subparagraph (A), the
4 appraiser shall submit to the Secretary and to
5 Koniag a written appraisal report specifying the
6 value of the selection rights and the methodol-
7 ogy used to arrive at the value.

8 (3) DETERMINATION OF VALUE.—

9 (A) DETERMINATION BY THE SEC-
10 RETARY.—Not later than 60 days after the date
11 of the receipt of the appraisal report under
12 paragraph (2)(C), the Secretary shall determine
13 the value of the selection rights and shall notify
14 Koniag of the determination.

15 (B) ALTERNATIVE DETERMINATION OF
16 VALUE.—

17 (i) IN GENERAL.—Subject to clause
18 (ii), if Koniag does not agree with the
19 value determined by the Secretary under
20 subparagraph (A), the procedures specified
21 in section 206(d) of the Federal Land Pol-
22 icy and Management Act of 1976 (43
23 U.S.C. 1716(d)) shall be used to establish
24 the value.

1 (ii) AVERAGE VALUE LIMITATION.—

2 The average value per acre of the selection
3 rights shall not be more than \$300.

4 **SEC. 4. KONIAG ACCOUNT.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—If the Secretary of the
7 Treasury is notified pursuant to section 3(a)(1)(B),
8 on October 1, 1997, the Secretary of the Treasury,
9 in consultation with the Secretary, shall establish in
10 the Treasury of the United States an account to be
11 known as the “Koniag Account”.

12 (2) INITIAL BALANCE.—The initial balance of
13 the Koniag Account shall be equal to the value of
14 the selection rights as determined pursuant to sec-
15 tion 3(b).

16 **SEC. 4. KONIAG ACCOUNT.**

17 (a) IN GENERAL.—

18 (1) *The Secretary shall enter into negotiations*
19 *for an agreement or agreements to exchange Federal*
20 *lands or interests therein which are in the State of*
21 *Alaska for the Koniag Selection Rights referred to in*
22 *section 3.*

23 (2) *If the value of the Federal lands to be ex-*
24 *changed is less than the value of the Koniag Selection*
25 *Rights established in section 3, then the Secretary*

1 *may exchange the Federal lands for an equivalent*
2 *portion of the Koniag Selection Rights. The remain-*
3 *ing selection rights shall remain available for addi-*
4 *tional exchanges.*

5 *(3) For purposes of this section, the term “Fed-*
6 *eral lands” means lands or interests therein located*
7 *in Alaska, administered by the Secretary and the title*
8 *to which is in the United States but excluding all*
9 *lands and interests therein which are located within*
10 *a conservation system unit as defined in the Alaska*
11 *National Interest Lands Conservation Act section*
12 *102(4).*

13 *(b) ACCOUNT.—*

14 *(1) IN GENERAL.—With respect to any Koniag*
15 *Selection Rights for which an exchange has not been*
16 *completed by October 1, 2004 (hereafter in this section*
17 *referred to as “remaining selection rights”), the Sec-*
18 *retary of the Treasury, in consultation with the Sec-*
19 *retary, shall, notwithstanding any other provision of*
20 *law, establish in the Treasury of the United States,*
21 *an account to be known as the Koniag Account. Upon*
22 *the relinquishment of the remaining selection rights to*
23 *the United States, the Secretary shall credit the*
24 *Koniag Account in the amount of the appraised value*
25 *of the remaining selection rights.*

1 (2) *INITIAL BALANCE.*—*The initial balance of the*
2 *Koniag Account shall be equal to the value of the se-*
3 *lection rights as determined pursuant to section 3(b).*

4 (3) *USE OF ACCOUNT.*—

5 (A) *IN GENERAL.*—Amounts in the Koniag
6 Account shall—

7 (i) be made available by the Secretary
8 of the Treasury to Koniag for bidding on
9 and purchasing property sold at public
10 sale, subject to the conditions described in
11 this paragraph; and

12 (ii) remain available until expended.

13 (B) *ASSIGNMENT.*—

14 (i) *IN GENERAL.*—Subject to clause
15 (ii) and notwithstanding any other provi-
16 sion of law, the right to request the Sec-
17 retary of the Treasury to withdraw funds
18 from the Koniag Account shall be assign-
19 able in whole or in part by Koniag.

20 (ii) *NOTICE OF ASSIGNMENT.*—No as-
21 signment shall be recognized by the Sec-
22 retary of the Treasury until Koniag files
23 written notice of the assignment with the
24 Secretary of the Treasury and the Sec-
25 retary.

1 (C) BIDDING AND PURCHASING.—

2 (i) IN GENERAL.—Koniag may use
3 the Koniag Account to—

4 (I) bid, in the same manner as
5 any other bidder, for any property at
6 any public sale by an agency; and

7 (II) purchase the property in ac-
8 cordance with applicable laws, includ-
9 ing the regulations of the agency of-
10 fering the property for sale.

11 (ii) REQUIREMENTS FOR AGENCIES.—

12 In conducting a transaction described in
13 clause (i), an agency shall accept, in the
14 same manner as cash, an amount tendered
15 from the Koniag Account.

16 (iii) ADJUSTMENT OF BALANCE.—The
17 Secretary of the Treasury shall adjust the
18 balance of the Koniag Account to reflect
19 each transaction under clause (i).

20 (4) SPECIAL PROCEDURES.—The Secretary of
21 the Treasury, in consultation with the Secretary,
22 shall establish procedures to permit the Koniag Ac-
23 count to—

24 (A) receive deposits;

1 (B) make deposits into escrow when an es-
2 crow is required for the sale of any property;
3 and

4 (C) reinstate to the Koniag Account any
5 unused escrow deposits if a sale is not con-
6 summated.

7 ~~(b)~~ (c) TREATMENT OF AMOUNTS FROM ACCOUNT.—
8 The Secretary of the Treasury shall—

9 (1) deem as a cash payment any amount ten-
10 dered from the Koniag Account and received by an
11 agency as a proceed from a public sale of property;
12 and

13 (2) make any transfer necessary to permit the
14 agency to use the proceed in the event an agency is
15 authorized by law to use the proceed for a specific
16 purpose.

17 ~~(e)~~ (d) REQUIREMENT FOR THE ADMINISTRATION OF
18 SALES.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary of the Treasury and the heads of
21 agencies shall administer sales described in sub-
22 section (a)(3)(C) in the same manner as is provided
23 for any other Alaska Native Corporation that—

24 (A) is authorized by law as of the date of
25 enactment of this Act; and

1 (B) has an account similar to the Koniag
2 Account for bidding on and purchasing property
3 sold for public sale.

4 (2) PROHIBITION.—Amounts in an account es-
5 tablished for the benefit of a specific Alaska Native
6 Corporation may not be used to satisfy the property
7 purchase obligations of any other Alaska Native Cor-
8 poration.

9 ~~(d) DIVISION OF REVENUES.—The selection rights~~
10 ~~shall be deemed to be an interest in the subsurface estate~~
11 ~~for the purpose of section 7(i) of the Alaska Native Claims~~
12 ~~Settlement Act (43 U.S.C. 1606(i)).~~

13 *(e) REVENUES.—The Koniag Account shall be deemed*
14 *to be an interest in the subsurface for purposes of section*
15 *7(i) of the Alaska Native Claims Settlement Act (43 U.S.C.*
16 *1601 et seq.).*

17 **SEC. 5. CERTAIN CONVEYANCES.**

18 (a) INTERESTS IN LAND.—For the purpose of section
19 21(c) of the Alaska Native Claims Settlement Act (43
20 U.S.C. 1620(c)), the following shall be deemed to be an
21 interest in land:

22 (1) The establishment of the Koniag Account
23 and the right of Koniag to request the Secretary of
24 the Treasury to withdraw funds from the Koniag
25 Account.

1 (2) The receipt by a Settlement Trust (as de-
2 fined in section 3(t) of such Act (43 U.S.C. 1602(t))
3 of a conveyance by Koniag of any right in the
4 Koniag Account.

5 (b) AUTHORITY TO APPOINT TRUSTEES.—In estab-
6 lishing a Settlement Trust under section 39 of such Act
7 (43 U.S.C. 1629e), Koniag may delegate the authority
8 granted to Koniag under subsection (b)(2) of such section
9 to any entity that Koniag may select without affecting the
10 status of the Settlement Trust under this section.

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