

GREENS CREEK LAND EXCHANGE ACT OF 1995

MAY 9, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 1266]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Greens Creek Land Exchange Act of 1995”.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

SEC. 3. DEFINITIONS.

As used in this Act—

- (1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;
- (2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);
- (3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;
- (4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;
- (5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;
- (6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;
- (7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and
- (8) the term "Secretary" means the Secretary of Agriculture.

SEC. 4. RATIFICATION OF THE AGREEMENT.

The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

SEC. 5. IMPLEMENTATION OF THE AGREEMENT.

(a) **LAND ACQUISITION.**—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(b) **ACQUISITION FUNDING.**—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first \$5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to subsection (c) of this section. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to subsection (a) of this section.

(c) **TWENTY-FIVE PERCENT FUND.**—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(d) **MINERAL DEVELOPMENT.**—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(e) **ADMINISTRATION.**—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(f) **REVERSIONS.**—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(g) **SAVINGS PROVISIONS.**—Implementation of the Agreement in accordance with this Act shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consider-

ation pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

SEC. 6. RECISION RIGHTS.

Within 60 days of the enactment of this Act, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this Act. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

PURPOSE OF THE BILL

H.R. 1266 provides for the exchange of lands within Admiralty Island National Monument in Southeast Alaska.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1266, the "Greens Creek Land Exchange Act of 1995", approves an agreement between the U.S. Forest Service and the Kennecott Greens Creek Mining Company (KGCMC) providing for an exchange of 7,500 acres of land within the Admiralty Island National Monument in Southeast Alaska. These lands are adjacent to the Greens Creek Mine, located about 20 miles south-southwest of Juneau. The U.S. Department of Agriculture and KGCMC are seeking Congressional approval of the agreement because the lands involved in the exchange are located in the Admiralty Island National Monument which is located within the Tongass National Forest.

The Greens Creek Mine is an underground lead-zinc-silver-gold mine which began production in early 1989. Mining operations were suspended in April 1993 due to low metal prices. During 1992, the last full year of operation, Greens Creek produced 31,200 tons of zinc, 12,650 tons of lead, 23,700 troy ounces of gold, and six million ounces of silver. When operating the mine is one of the nation's largest producers of silver. The mine has been a major employer in Juneau and Southeast Alaska, employing approximately 250 workers during its peak operation.

The Greens Creek Land Exchange Agreement is an innovative approach which allows for limited development of mineral resources while providing for both short- and long-term environmental protection of Admiralty Island National Monument. In addition, the U.S. Forest Service will receive funds for acquisition of inholdings and the Federal Government will receive royalty revenues on any production from the exchanged lands.

The mining area at Greens Creek encompasses 17 patented Federal mining claims (about 340 acres) located within the Admiralty Island National Monument. The Greens Creek Mine is operated under a special regulatory regime provided for in the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). The area surrounding the present mining area has high mineral potential but remains unexplored because it was closed to mineral exploration and development under ANILCA. This land exchange will permit KGCMC to explore and develop an area for mining located within the non-wilderness portion of the National Monument. Any mining resulting would utilize the infrastructure constructed for the existing mine and be subject to the same stringent regulatory regime currently governing the existing mine. As is the present

case, surface activity would be limited primarily to activities such as exploratory drilling and necessary access to active exploration areas.

Ratification of this land exchange is not necessary to ensure re-opening of the Greens Creek Mine, but the agreement will increase the potential resource base of the mine. As a result, the chances of a successful discovery which significantly extends the mine's operational life would be much improved.

In exchange for the right to explore and develop a 7,500-acre area surrounding the existing Greens Creek Mine, KGCMC has agreed to:

Provide \$1 million for acquisition of inholdings located within Admiralty Island National Monument from willing sellers. Any remaining funds from these acquisitions would be used to purchase inholdings in other conservation units within the Tongass National Forest.

Pay a royalty to the Federal Government on the production from the exchange area. This royalty is based on the value received from this production after deduction of shipping, smelting and refining charges. The royalty, referred to in the agreement as the "Net Island Receipts" royalty, has two tiers based on the value of the ore mined. When metal prices are average or better, the royalty will be three percent, and at low metal prices, the royalty will be three quarters of one percent. This two-tier royalty will encourage the Greens Creek Mine to continue operation in times of lower metal prices.

To operate in the entire exchange area under the strict regulatory regime originally provided for in ANILCA. This regime limits the surface activity to the minimum necessary for operations because the mine is located within a National Monument.

Only the subsurface mineral estate of the 7,400 acre exchange area will be conveyed to KGCMC. This will revert to the United States following cessation of mining activity. Additionally, the fee interest in the existing patented Federal mining claims will revert to the United States when mining is concluded.

COMMITTEE ACTION

H.R. 1266 was introduced on March 16, 1995, by Chairman Don Young of Alaska and cosponsored by Ranking Minority Member George Miller of California. The bill was referred to the Committee on Resources. On March 30, 1995, the Committee held a hearing on H.R. 1266, where witnesses from the U.S. Agriculture Department and KGCMC testified in support of the bill. The Committee also received a letter of support from the Southeast Alaska Conservation Council. On April 5, 1995, the Committee met to mark up H.R. 1266. En bloc amendments were offered by Congressman Saxton for Chairman Young to resolve pay-as-you-go implications of a proposed special Treasury fund and clarify the reclamation responsibilities of KGCMC. These amendments were adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that the bill may be cited as the “Greens Creek Land Exchange Act of 1995”.

Section 2. Findings

Section 2 makes four findings which state that the U.S. Forest Service and KGCMC have negotiated an agreement allowing the area surrounding the Greens Creek mine to be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument and that this Agreement requires approval and ratification by Congress.

Section 3. Definitions

Section 3 defines the following terms used in the Act: Agreement, ANILCA, conservation system unit, Greens Creek Claims, KGCMC, Monument, Royalty and Secretary.

Section 4. Ratification of the agreement

Section 4 approves the U.S. Forest Service-KGCMC agreement and provides for future modification or amendment of the agreement, without further action by Congress, upon written consent of all parties and notice in writing to the appropriate committees of Congress.

Section 5. Implementation of the agreement

This section: (1) gives the Secretary of Agriculture the authority to make the land acquisitions provided for in H.R. 1266 and incorporates these lands into the National Forest System; (2) creates a special account in the U.S. Treasury, the “Greens Creek Land Exchange Account,” to receive up to \$5 million of the Federal Government’s royalty share and authorizes the expenditures of monies in the escrow account for acquisition of inholdings on Admiralty Island; (3) makes royalty payments under the Act subject to the 25 percent distribution requirements paid to the State of Alaska and local governments under provisions of the Act of May 23, 1908; (4) provides that this Act will take precedence over any conflicting provisions in ANILCA; (5) authorizes the Secretary of Agriculture to implement and administer the rights and obligations of the Federal Government under the Agreement; (6) provides for the reclamation of KGCMC surface lands and the administrative deposition of KGCMC lands upon reversion to the United States; and (7) exempts implementation of H.R. 1266 from the National Environmental Policy Act, the National Historic Preservation Act, title VIII of ANILCA, and other laws.

Section 6. Recision rights

Section 6 gives KGCMC a right of recision for a 60-day period, beginning on the date H.R. 1266 becomes law. The recision must be made by a duly authorized resolution of the Board of Directors of KGCMC.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 21(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1266 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1266. However, clause 7(d) of the rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1266 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1266.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rule of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1266 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 4, 1995

Hon. DON YOUNG,
*Chairman, Committee on Resources,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1266, the Greens Creek Land Exchange Act of 1995, as ordered reported by the House Committee on Resources on April 5, 1995. CBO estimates that enacting this bill would not have a significant impact on the federal budget or on the budgets of state

or local governments. Because enactment would not affect direct spending or receipts through 1998, pay-as-you-go provisions would not apply to the bill.

H.R. 1266 would ratify a land exchange agreement between the Forest Service (FS) and Kennecott Greens Creek Mining Company (KGCMC). Under the terms of the agreement, KGCMC would acquire the right to explore for and develop minerals found on about 7,500 acres of federal land in the Tongass National Forest. Under current law, these lands are not available for mineral exploration or development. The federal government would receive a royalty based on the value of any minerals mined on these lands. In exchange for these rights, KGCMC would give the federal government private land in the Tongass National Forest.

The bill also would establish as special fund in the United States Treasury into which the first \$5 million of any royalties collected from KGCMC (net of a 25 percent payment to the affected counties) would be deposited. When appropriated, any such funds would be used for additional land acquisition in the area. Based on information provided to us by the FS, we estimate that the provisions of H.R. 1266 and the agreement could be implemented at no significant additional cost to the federal government. But because the agency has no information as to what minerals might be found on the lands to be acquired by KGCMC, or their value, we have no basis for estimating the future royalty income that may result from enactment of this bill. We do not expect any such income to be realized for at least the next five years.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, *Director*).

CHANGES IN EXISTING LAW

If enacted, H.R. 1266 would make no changes in existing law.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1266.