AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 232

105TH CONGRESS, *1st Session* | SENATE | REPORT 105–119

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENT

OCTOBER 29, 1997.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 967]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 967) to amend the Alaska Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends 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. AUTOMATIC LAND BANK PROTECTION.

(a) LANDS RECEIVED IN EXCHANGE FROM CERTAIN FEDERAL AGENCIES.—The matter preceding clause (i) of section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(1)(A)) is amended by inserting "or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law" after "Settlement Trust".

(b) LANDS EXCHANGED AMONG NATIVE CORPORATIONS.—Section 907(d)(2)(B) of such Act (43 U.S.C. 1636(d)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; and", and by adding at the end the following:

> "(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.".

59–010

(c) ACTIONS BY TRUSTEE SERVING PURSUANT TO AGREEMENT OF NATIVE CORPORATIONS.—Section 907(d)(3)(B) of such Act (43 U.S.C. 1636(d)(3)(B)) is amended by striking "or" at the end of clause(i), by striking the period at the end of clause (ii) and inserting "; or", and by adding at the end the following:

"(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint venturers whose beneficiaries, partners, shareholders, or joint ventures are Native Corporations.".

SEC. 2. RETAINED MINERAL ESTATE.

Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

"(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

"(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

"(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

"(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional Corporation' shall refer only to Doyon, Limited."; and

"(2) in subparagraph (E) (as so redesignated), by striking "(A) or (B)" and inserting "(A), (B), or (C)".

SEC. 3. CLARIFICATION ON TREATMENT OF BONDS FROM A NATIVE CORPORATION.

Section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) is amended—

(1) in subparagraph (3)(A), by inserting "and on bonds received from a Native Corporation" after "from a Native Corporation"; and

(2) in subparagraph (3)(B), by inserting "or bonds issued by a Native Corporation which Bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution" before the semicolon.

SEC. 4. PROPOSED AMENDMENT TO PUBLIC LAW 102–415.

Section 20 of the Alaska Land Status Technical Corrections Act of 1992 (106 Stat. 2129) is amended by adding at the end the following new subsection:

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to in-lieu subsurface estate are hereby provided to CIRL. Within 1 year from the date of enactment of this subsection, CIRI shall select 3,520 acres of land from the area designated for in-lieu selection by paragraph I.B.(2)(b) of the document identified in section 12(b) of the Act of January 2, 1976 (43 U.S.C. 1611 note).".

SEC. 5. CALISTA CORPORATION LAND EXCHANGE.

(a) CONGRESSIONAL FINDINGS.—Congress finds and declares that—

(1) the land exchange authorized by section 8126 of Public Law 102–172 should be implemented without further delay;

(2) the Calista Corporation, the Native Regional Corporation organized under the authority of the Alaska Native Claims Settlement Act (ANCSA) for the Yupik Eskimos of Southwestern Alaska, which includes the entire Yukon Delta National Wildlife Refuge—

(A) has responsibilities provided for by the Settlement Act to help address social, cultural, economic, health, subsistence, and related issues within the Region and among its villages, including the viability of the villages themselves, many of which are remote and isolated; and

(B) has been unable to fully carry out such responsibilities, and the implementation of this exchange is essential to helping Calista utilize its assets to carry out those responsibilities to realize the benefits of ANCSA;

(3) the parties to the exchange have been unable to reach agreement on the valuation of the lands and interests in lands to be conveyed to the United States under section 8126 of Public Law 102–171; and

(4) in light of the foregoing, it is appropriate and necessary in this unique situation that Congress authorize and direct the implementation of this exchange as set forth in this section in furtherance of the purposes and underlying goals of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

(b) LAND EXCHANGE IMPLEMENTATION.—Section 8126(a) of Public Law 102–172 (105 Stat. 1206) is amended—

(1) by inserting "(1)" after "(a)";

(1) by striking "October 1, 1996" and inserting "October 1, 2002";

(3) by inserting after "October 28, 1991" the following: "(hereinafter referred to as 'CCRD') and in the document entitled, 'The Calista Conveyance and Relinquishment Document Addendum', dated September 15, 1996 (hereinafter referred to as 'CCRD Addendum')";

(4) by striking "The value" and all that follows through "Provided, That the" and inserting in lieu thereof the following:

"(2) Unless prior to December 31, 1997, the parties mutually agree on a value of the lands and interests in lands to be exchanged as contained in the CCRD and the CCRD Addendum, the aggregate values of such lands and interests in lands shall be established as of January 1, 1998, as provided in paragraph (6) of the CCRD Addendum. The";

(5) in the last sentence, by inserting a period after "1642" and striking all that follows in that sentence; and

(6) by adding at the end the following new paragraph:

"(3) The amount credited to the property account is not subject to adjustment for minor changes in acreage resulting from preparation or correction of the land descriptions in the CCRD or CCRD Addendum or the exclusion of any small tracts of lands as a result of hazardous materials surveys.".

(c) EXTENSION OF RESTRICTION ON CERTAIN PROPERTY TRANSFERS.—Section 8126(b) of Public Law 102–172 (105 Stat. 1206) is amended by striking "October 1, 1996" and inserting "October 1, 2002".

(d) EXCHANGE ADMINISTRATION.—Section 8126(c) of Public Law 102–172 (105 Stat. 1207) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the sentence beginning "On October 1, 1996," and inserting in lieu thereof the following: "To the extent such lands and interests have not been exchanged with the United States, on January 1, 1998, the Secretary of the Treasury shall establish a property account on behalf of Calista Corporation. If the parties have mutually agreed to a value as provided in subsection (a)(2), the Secretary of the Treasury shall credit the account accordingly. In the absence of such an agreement the Secretary of the Treasury shall credit the account with an amount equal to 66 percent of the total amount determined by paragraph (6) of the CCRD Addendum. The account shall be available for use as provided in subsection (c)(3), as follows:

"(A) On January 1, 1998, an amount equal to one-half the amount credited pursuant to this paragraph shall be available for use as provided.

"(B) On October 1, 1998, the remaining one-half of the amount credited pursuant to this paragraph shall be available for use as provided.

"(2) On October 1, 2002, to the extent any portion of the lands and interests in lands have not been exchanged pursuant to subsection (a) or conveyed or relinquished to the United States pursuant to paragraph (1), the account established by paragraph (1) shall be credited with an amount equal to any remainder of the value pursuant to paragraph (1).";

(3) by inserting "(3)" before "Subject to";

(4) by striking "on or after October 1, 1996," and by inserting after "subsection (a) of this section," the following: "upon conveyance or relinquishment of equivalent portions of the lands referenced in the CCRD and the CCRD Addendum,"; and

(5) by adding at the end the following new paragraphs:

"(4) Notwithstanding any other provision of law, Calista Corporation or the village corporations identified in the CCRD Addendum may assign, without restriction, any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(5) Calista will provide to the Bureau of Land Management, Alaska State Office, appropriate documentation, including maps of the parcels to be exchanged to enable that office to perform the accounting required by paragraph (1) and to forward such information, if requested by Calista, to the Secretary of the Treasury as authorized by such paragraph, Minor boundary adjustments shall be made between Calista and the Department to reflect the acreage figures reflected in the CCRD and the CCRD Addendum.

"(6) For the purpose of the determination of the applicability of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) to revenues generated pursuant to this section, such revenues shall be calculated in accordance with paragraph (4) of the CCRD Addendum.".

SEC. 6. MINING CLAIMS.

Paragraph (3) of section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by striking out "regional corporation" each place it appears and inserting in lieu thereof "Regional Corporation"; and

(2) by adding at the end the following: "The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 7(i) of this Act.".

SEC. 7. SALE, DISPOSITION, OR OTHER USE OF COMMON VARIETIES OF SAND, GRAVEL, STONE, PUMICE, PEAT, CLAY, OR CINDER RESOURCES.

Subsection (i) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) is amended—

(1) by striking "Seventy per centum" and inserting "(A) Except as provided by subparagraph (B), seventy percent"; and

(2) by adding at the end the following:

"(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.".

SEC. 8. ESTABLISHMENT OF ADDITIONAL NATIVE CORPORATIONS IN SOUTHEAST ALASKA.

(a) Section 16 of the Alaska Native Claims Settlement Act, as amended (Pub. L. No. 92–293, 85 Stat. 688, 43 U.S.C. § 1601, hereinafter referred to as "the Act") is amended by adding at the end thereof the following new subsection:

"(e)(1) The Native residents of each of the Native Villages of Haines, Ketchikan, Petersburg, and Wrangell, Alaska, may organize as an Urban Corporation.

"(2) The Native residents of the Native Village of Tenakee, Alaska, may organize as a Group Corporation.

"(3) Nothing in this subsection shall affect any existing entitlement to land of any Native Corporation pursuant to this Act or any other provision of law."

(b) Section 8 of the Act is amended by adding at the end the following new subsection:

"(d) ENROLLMENT IN THE ADDITIONAL CORPORATIONS IN SOUTHEAST ALASKA.—

"(1) The Secretary shall enroll to each of the Urban Corporations for Haines, Ketchikan, Petersburg, or Wrangell those individual natives who enrolled under this Act to Haines, Ketchikan, Petersburg, or Wrangell, and shall enroll to the Group Corporation for Tenakee those individual natives who enrolled under this Act to Tenakee: *Provided,* That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or section 14(h)(8) of this Act.

"(2) Those Natives who, pursuant to paragraph (1), are enrolled to an Urban Corporation for Haines, Ketchikan, Petersburg, or Wrangell, or to a Group Corporation for Tenakee, and who were enrolled as shareholders of the Regional Corporation for southeast Alaska on or before March 30, 1973, shall receive 100 shares of Settlement Common Stock in such Urban or Group Corporation.

"(3) A Native who has received shares of stock in the Regional Corporation for southeast Alaska through inheritance from a decedent Native who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, or Wrangell, which decedent Native was not a shareholder in a Village, Group or Urban Corporation, shall receive the identical number of shares of Settlement Common Stock in the Urban Corporation for Haines, Ketchikan, Petersburg, or Wrangell, or in the Group Corporation for Tenakee, as the number of shares inherited by that Na-

tive from the decedent Native who would have been eligible to be enrolled to such Urban or Group Corporation."

(c) Section 7 of the Act is amended as follows:

(1) by adding at the end of subsection 7(j) the following new sentence: "Native members of the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell who become shareholders in an Urban or Group Corporation for such a community shall continue to be eligible to receive distributions under this subsection as at-large shareholders of Sealaska Corporation."

(2) by adding at the end of section 7 the following new subsection:

"(r) No provision of Section 8 of the 1997 Act amending the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes, shall affect the ratio for determination of distribution of revenues among Native Corporations under this section of the Act and the 1982 Section 7(i) Settlement Agreement among the Regional Corporations or among Village Corporations under section 7(j) of the Act.".

(d) Not later than December 31, 1998, the Secretary of the Interior, in consultation with the Secretary of Agriculture, and in consultation with representatives of the Urban and Group Corporations established pursuant to this section, as well as Sealaska Corporation, shall submit to the Senate Committee on Energy and Natural Resources and the House Committee on Resources a report making recommendations to the Congress regarding lands and other appropriate compensation to be provided to the Urban and Group Corporations established pursuant to this section, including:

(1) local areas of historical, cultural, and traditional importance to Alaska Natives from the Villages of Haines, Ketchikan, Petersburg, Tenakee, or Wrangell, that should be conveyed to such Urban or Group Corporation, together with any recommended limitations or stipulations regarding the use of such lands, including possible restrictions on the harvest of timber from such lands; and

(2) such additional forms of compensation as the Secretary may recommend.

(e) PLANNING GRANTS.—There are authorized to be appropriated such sums as are necessary to provide the Native Corporations for the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell with grants in the amount of $250,000 each, to be used for planning, development and other purposes for which Native Corporations are organized under this section.

(f) Notwithstanding any other provision of Pub. L. No. 92–203, as amended, nothing in this section shall create any entitlement to federal lands for an Urban or Group Corporation established pursuant to this section without further Congressional action.

SEC. 9. ALASKA NATIVE ALLOTMENT APPLICATIONS.

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

"(7) Paragraph (1) of this subsection and section (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) that is open and pending on the date of enactment of subsection (a)(7),

"(B) if the lands described in the application are Federal ownership other than as a result of reacquisition by the United States after January 3, 1959, and

"(C) if any protest which was filed by the State of Alaska pursuant to subsection (5)(b) with respect to the application is withdrawn or dismissed whether before or after the date of enactment of subsection (a)(7).

"(D) any allotment application which is open and pending and which is legislatively approved by enactment of subsection (a)(7) shall, when allotted, be subject to any easement, trail or right-of-way in existence on the date of the native allotment applicant's actual commencement of use and occupancy. The jurisdiction of the Department is hereby extended to make the factual determination required by this subsection."

SEC. 10. VISITOR SERVICES.

Paragraph (1) of section 1307(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(b)) is amended—

(1) by striking "Native Corporation" and inserting "Native Corporations"; and

(2) by striking "is most directly affected" and inserting "are most directly affected".

SEC. 11. TRAINING OF FEDERAL LAND MANAGERS.

The Alaska National Interest Lands Conservation Act (P.L. 96–487 94 Stat. 2371) is amended as follows:

(1) Section 101 is amended by the addition of a new subsection (e) as follows: "(e) In order to comply with this Act all federal public land managers in Alaska, or a region that includes Alaska, shall participate in all ANILCA and ANCSA training class to be completed within 120 days after comment. All future appointed federal public land managers in Alaska, or a region containing Alaska, are required to complete the aforementioned training within 60 days of appointment.".

SEC. 12. SUBSISTENCE USES IN GLACIER BAY NATIONAL PARK.

The Alaska National Interest Lands Conservation Act (P.L. 96–487 94 Stat. 2371) is amended as follows:

(1) Section 202(1) is amended by adding the following at the end thereof: "Subsistence uses of fish by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of Title VIII.".

SEC. 13. ACCESS RIGHTS.

The Alaska National Interest Lands Conservation Act (P.L. 96–487 94 Stat. 2371 is amended as follows:

(1) Section 1105 is amended by designating the existing language as subsection (a) and inserting a new subsection (b) as follows:

"(b) any alternative route that may be identified by the head of the federal agency shall not be less economically feasible and prudent than the route for the system being sought by the applicant.".

(2) The second sentence in Section 1110(a) is amended by striking "area" and inserting in lieu thereof: "area: *Provided,* That reasonable regulations shall not include any requirements for the demonstration of pre-existing use and *Provided further,* That the Secretary shall limit any prohibitions to the smallest area practicable, to the smallest period of time or both. No prohibition shall occur prior to formal consultation with the State of Alaska.".

(3) The last sentence of section 1110(b) is amended by inserting "may include easements, right-of-way, or other interests in land or permits and" immediately after "such rights".

(4) The last sentence of section 1110(b), strike "lands" and insert in lieu thereof the following: "lands: *Provided,* That the Secretary shall not impose any unreasonable fees or charges on those seeking to secure their rights under this subsection. Individuals or entities possessing rights under this subsection shall not be subject to the requirement of sections 1104, 1105, 1106, and 1107 herein.".

(5) Section 1315 is amended by adding a new subparagraph "(g)" as follows: "(g) Within National Forest Wilderness Areas and National Forest Monument areas as designated in this and subsequent Acts, the Secretary of Agriculture may permit or otherwise regulate helicopter use and landings, except that he shall allow for helicopter use and landings in emergency situations where human life or health are in danger.".

SEC. 14. USE OF CABINS AND ALLOWED USES.

The Alaska National Interest Lands Conservation Act (P.L. 96–487 94 Stat. 2371) is amended as follows:

(1) Section 1303 (a)(1)(D) is amended by striking "located" and inserting in lieu thereof: the following: "located, *Provided,* That the applicant may not be required to waive, forfeit, or relinquish its possessory or personalty interests in a cabin or structure.".

(2) Section 1303(a)(2)(D) is amended by striking "located" and inserting in lieu thereof: the following: "located, *Provided,* That the applicant may not be required to waive, forfeit, or relinquish its possessory or personalty interest in a cabin or structure.".

(3) Section 1303(b)(3)(D) is amended by striking "located" and inserting in lieu thereof the following: "located, *Provided,* That the applicant may not be required to waive, forfeit, or relinquish its possessory or personalty interests in a cabin or structure.".

(4) Section 1303 is amended by adding a new subsection (e) as follows:

"(e) All permits, permit renewals, or renewal or continuation of valid leases issued pursuant to this section shall provide for repair, maintenance, and replacement activities and may authorize alterations to cabins and similar structure that do not constitute a significant impairment of unit purposes.".

(5) Section 1316(a) is amended by striking "permittee" in the last sentence and inserting in lieu thereof the following: "permittee *Provided,* That structures and facilities may be allowed to stand from season to season.".

(6) Section 1316(a) is amended in the first sentence by deleting "equipment" and inserting in lieu thereof: "equipment, including motorized and mechanical equipment,".

SEC. 15. REPORT.

Within nine months after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report which includes the following:

(1) LOCAL HIRE.—(A) The report shall—

(i) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198); and

(ii) also address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service.

(B) The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this paragraph with respect to the Forest Service.

(2) LOCAL CONTRACTS.—The report shall describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

PURPOSE OF THE MEASURE

S. 967 makes a number of technical changes to the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Lands Conservation Act.

BACKGROUND AND NEED

ANCSA helped settle the aboriginal land claims of Alaska Natives. The goals of ANCSA were twofold: (1) to establish property rights of Native Alaskans in their aboriginal land, and (2) to secure an economic base for their long-term survival as a people. ANCSA created thirteen regional corporations, 200 village corporations and granted these entities 44 million acres and $962.5 million to implement these goals. ANCSA has been amended numerous times with technical and other changes in order to make it a more effective piece of legislation.

In addition to changes to ANCSA, this legislation addresses changes that need to be made to ANILCA to ensure that the Federal agencies are implementing this legislation consistent with statutory provisions and understandings reached by some when the bill was enacted.

Seventeen years ago, Congress enacted the ANILCA. Despite the opposition of many Alaskans, over 100 million acres of land was set aside in a series of vast Parks, Wildlife Refuges, and wilderness units. Much of the concern about the Act was the impact of these Federal units, and related management restrictions, on traditional activities and lifestyles.

To allay these concerns, ANILCA included a series of unique provisions designed to ensure that traditional activities and lifestyles would continue, that Alaskans would not be subjected to a "permit lifestyle", and that the agencies would be required to recognize the crucial distinction between managing small units surrounded by millions of people in the lower 48 and vast multi-million acre units encompassing a relative handful of individuals and communities in Alaska. The sponsors of ANILCA issued repeated assurances that the establishment of these units would in fact protect traditional activities and lifestyles and not place them in jeopardy.

Early implementation of the Act closely reflected these promises. However, as the years have passed, there is a growing feeling among many Alaskans that many of the Federal managers seem to have lost sight of these important representations to the people of Alaska and that agency personnel, trained primarily in lower 48 circumstances, have brought the mentality of restriction and regulation to Alaska. The critical distinctions between management of parks, refuges and wilderness areas in the 49th State and the lower 48 have blurred. The result is the spread of restriction and regulation and the creation of the exact "permit lifestyle" which some feel was not supposed to happen.

LEGISLATIVE HISTORY

S. 967 was introduced June 26, 1997 by Senator Murkowski on behalf of himself and Senator Stevens. A Full Committee hearing was held on July 29, 1997. At the business meeting on September 24, 1997 the Committee on Energy and Natural Resources ordered S. 967, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 24, 1997, by a majority vote of a quorum present, recommends that the Senate pass S. 967, if amended as described herein.

The rollcall vote on reporting the measure was 12 yeas, 8 nays, as follows:

YEAS	NAYS
Murkowski	Bumpers
Domenici	Ford
Nickles [1]	Bingaman [1]
Craig	Dorgan
Campbell	Graham [1]
Thomas [1]	Wyden [1]
Kyl	Johnson
Grams	Landrieu
Smith	
Gorton	
Burns [1]	
Akaka	

[1] Voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 967, the Committee adopted an amendment in the nature of a substitute offered by Senator Murkowski. The amendment made three minor changes to the bill as introduced. First, it mandates that training of federal employees should include ANCSA training as well as ANILCA training. Second, the substitute clarifies that Section 12 of the legislation refers to subsistence uses "of fish" in Glacier Bay, and not other uses such as game or timber harvesting. Finally, the amendment makes technical changes to Section 9, regarding Native Allotments, to reflect

an agreement between the Alaska Federation of natives, the State of Alaska, and the Department of the Interior.

SECTION-BY-SECTION ANALYSIS

Section 1 would amend ANILCA to extend the automatic land bank protections to land trades between village corporations, intra-regional corporation land trades and Native Corporation land trades with Federal or state governments.

Sec. 2. Retained mineral estimate.—Section 2 would allow a Native Regional Corporation, Doyon Ltd., the option of obtaining the retained mineral estate of the Native Allotments that are totally surrounded by ANCSA 12(a) and 12(b) land selections of the village corporations. If Doyon exercises its rights gained through this amendment it must do so on a township-by-township basis. The subsurface estate obtained by Doyon under this authority will be charged against its total 12(c) entitlements.

Sec. 3. Clarification on treatment of bonds from a Native corporation.—This section amends section 1626(c)(B) of ANCSA to authorize Native Corporations to issue bonds or other debt instruments as a dividend for distribution to its shareholders. Such a bond would be a form of collateral (similar to U.S. Treasury Bonds or corporate sales or distribution of bonds).

Sec. 4. Proposed amendment to Public Law 102–415.—This section proposes to correct an oversight in Section 20(f) of P.L. 102–415 regarding the subsurface estate entitlement due Cook Inlet Region, Inc. (CIRI). It directs that the subsurface of the Gold Creek Native Groups (GCNG) 14(h)(2) entitlements be fulfilled from the Talkeetna pool. This section clarifies that CIRI's subsurface estate is 3,520 acres, equaling GCNG's 14(h)(2) surface entitlements.

Sec. 5. Calista Corporation land exchange.—This section would direct the Secretary of the Interior to implement a land exchange authorized by section 8126 of P.L. 102–172 between Calista Corporation and a number of Village Corporations from the Yukon/Kuskokwim Delta without delay. This section also directs the Federal Government to ensure the value of the lands Calista is offering for exchange is determined in accordance to the Congressionally mandated values stated in this legislation.

Sec. 6. Mining claims.—This section would amend section 22(c) of ANCSA to include the Haida Corporation in the transfer of the administration of certain mining claims and clarifies that the subsurface estate obtained by the Haida Corporation is not subject to the 7(i) provisions of ANCSA.

Sec. 7. Sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay or cinder resources.—This section amends section 7(i) of ANCSA such that revenues derived by the Regional Corporations from the sale, disposition, or other use of common sand, gravel, stone, pumice, peat, clay or cinder resources will not be subject to the sharing provisions of section 7(i) of ANCSA. The ownership of these resources shall not be affected by this legislation. This provision codifies an agreement that was reached between the ANCSA Regional Corporations in June of 1980 after years of litigation.

Sec. 8. Establishment of additional Native corporations in southeast Alaska.—This section amends section 16 of ANCSA by author-

izing the Native residents of the Native Villages of Haines, Ketchikan, Petersburg and Wrangell, Alaska to organize as Urban ANCSA Corporations. Likewise, the Native residents of the Native Village of Tenakee, Alaska are authorized to organize as a Group ANCSA Corporation. By this action, Congress recognizes the Native residents of these villages are eligible to form ANCSA corporations. This section shall not affect the land entitlements of the existing ANCSA Corporations. This section further directs the Secretary of Agriculture, Sealaska Corporation and the Urban and Group Corporations established pursuant to this section, to report to Congress regarding lands and other appropriate compensation to be provided to these corporations. This section does not grant land entitlements to the above mentioned corporations unless further authorized by Congress. Additionally, this section will authorize planning grants of $250,000 to each of the Native Corporations for the communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. This section will not impact the 7(i) entitlement of the regional corporations.

Sec. 9. Alaska Native allotment applications.—This section will amend section 905(a) of ANILCA such that the Native allotments that were protested by the State of Alaska will be considered legislatively approved pursuant to ANILCA in those instances where the State lifted its protest of the same. The intent of this section is to make sure that in those instances where the State of Alaska protested certain Native allotments but later lifted its protest, the affected Native allotments will be considered legislatively approved pursuant to section 905 of ANILCA.

Sec. 10. Visitor services.—Section 10 would allow the Secretary of the Interior the flexibility of working with affected Native Corporations rather than just one Native Corporation on the implementation of section 1307 of ANILCA for the contracting for visitor services, except sport fishing and hunting guiding activities, within any conservation unit. Currently, section 1307(b)(1) requires the Secretary of the Interior to give preference to the Native Corporation which the Secretary determines is not directly affected by the establishment or expansion of a conservation unit.

Sec. 11. Amends section 101—Purposes.—This section would require that public land managers in Alaska or in a region containing Alaska take a training course in implementation prescriptions to ANCSA and ANILCA. Currently, public land managers in Alaska are not required to receive any formal training/education in the management prescriptions of ANILCA or ANCS upon being assigned to manage lands under the jurisdiction of these Acts.

Sec. 12. Amends section 202—Subsistence fishing in Glacier Bay.—This section amends ANILCA to allow subsistence uses of fish by local residents in the park where such uses are traditional in accordance with the provisions of Title VIII of ANILCA.

Sec. 13(1). Amends section 1105—Access rights.—One of the features of title XI and ANILCA was a provision that if a transportation or utility system application was denied, the Federal agency had to identify an economically feasible and prudent alternative route. The original language was unclear about the relative feasibility of the applied-for-route compared to the identified alternative route. This amendment changes section 1105 by adding a

subsection (b) that specifies that any alternative route identified by the Federal Government must not be more costly than the initially proposed route. It is not the intent of this section that economic feasibility be the sole determining factor, however.

Sec. 13(2). Amends section 1110(A)—Protection of traditional access.—This section changes the traditional access provision which would require that any closures or restrictions be limited to the smallest area practicable and to the smallest period of time necessary to conserve unit resources. This would ensure that the agencies can impose closures that may be needed but cannot extend restrictions beyond the areas affected by any imminent resource impact. In addition, the amendment requires formal consultation with the State of Alaska during the period when the Federal agency is considering imposing and access closure or limitation.

Sec. 13(3). Amends section 1110(B)—Protection of inholder access.—The second half of section 1110—subsection (b)—assures guaranteed access to land inholdings within the conservation system units. Congress made it clear that inholders were to be able to obtain permanent access rights that would include interests in land (see House Report No. 96–97, Part I, pps. 239–240, April 18, 1997). However, as the provision has been administered, the Federal agencies are informing applicants that only limited term permits are available. The first amendment to section 1110(b) expressly provides that the "rights" which may be granted by this provision include easements, rights-of-way, or other appropriate interests in land.

Sec. 13(4). Amends section 1110B)—Protection of inholder access.—The second addition to section 1110(b) relates to application fees. Land management agencies could effectively thwart the access grant to inholders by erecting insurmountable fee barriers. Consequently, the language provides that the agencies cannot impose unreasonable fees.

Sec. 13(5). Amends section 1315—Wilderness management—helicopters.—This section will allow the Secretary of Agriculture to permit helicopter use and landings in wilderness units of the National Forest System and directs him to allow such use and landings in emergency situations. Helicopter use has long been used in these units as well as other conservation units in Alaska, but recent attempts have been made to disallow them as a mode of traditional access. This provision would add that in some of the remote areas of Alaska use of helicopters in protected as a traditional use under ANILCA. The Secretary would retain authority to regulate their use under this provision.

Sec. 14(1,2,3). Amends section 1303—Use of cabins.—In 1980, Congress crafted a comprehensive compromise regarding cabins constructed on Federal lands. Simply stated, individuals could continue to use and occupy traditional use cabins if they were prepared to waive any and all claims to the underlying Federal lands. Sections 14(1),(2), and (3) provide that an applicant for a cabin permit may not be required to waive his or her ownership interests in a cabin or its contents.

Sec. 14(4). Amends section 1303—Use of cabins.—A second change to section 1303 specifies that cabin permits issued by the Federal agencies must allow for repair, maintenance and replace-

ment activities as well as alterations. The only basis for disallowing such activities is if they would significantly impair the purposes, or the resources, of the affected conservation unit.

Sec. 14(5,6). Amends section 1316—Allowed uses.—Section 1316 was added to ANILCA to ensure that traditional camps could continue to be operated in the newly established parks, preserves, refuges, wilderness areas, etc. The first change to section 1316 would allow tent platforms to remain over the winter months. The agencies have interpreted the word "temporary" in the present section to mean that campsites must be dismantled every year. Many guides now are required to construct their wooden tent platforms in the spring, disassemble them in the fall, stack and store the lumber on site, and repeat the cycle the next year. Considering that most campsites are buried under substantial snow during the long arctic winter, it makes sense to amend the law to allow the platforms (which are generally one foot high) to remain in place buried under the snow over the winter months.

A second amendment would permit the use of motorized and mechanical equipment such as that needed to operate a battery-operated water pump. This section is into intended to increase the use of motorized vehicles in these units.

Sec. 15. Report.—Section 15 addresses section 1308 of ANILCA, which authorizes the Secretary of the Interior in limited circumstances to hire local people who do not completely qualify under certain job descriptions through appointments. A problem has arisen under this authority, in that when these people appointed through this process later acquire all the necessary skills, they are unable to become permanent employees of the Department of the Interior, with all the attendant benefits. This provision will direct the Secretary of the Interior to complete a report within nine months of enactment to address the recruitment process that may restrict employees hired under ANILCA Section 1308 from successfully obtaining positions in the competitive service.

Cost and Budgetary Considerations

The Committee on Energy and Natural Resources requested a cost estimate from the Congressional Budget Office for S. 967. This estimate had not been received at the time the report on S. 967 was filed. When the estimate becomes available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 967. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 967, as ordered reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 967 is set forth below. Additionally, on, September 25, 1997, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 967. These reports had not been received at the time the report on S. 967 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of the Interior at the Committee hearing follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 23, 1997.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This follows up the July 29 testimony of the Department to you concerning S. 967.

With respect to that testimony, there are three changes necessary to the appendix to the testimony we submitted at the hearing, based on discussions and agreements with interested parties that have occurred since the hearing. These revisions to our positions are recommended changes to the language of S. 967 and will also be included in the Department's position to the House of Representatives on H.R. 2000. Because they are based on agreements with interested parties, we believe they will be agreeable to the Committee.

With respect to section 2, Retained Mineral Estate, we have agreed with Doyon to further technical language changes reflected in attachment 1 to this letter.

We have agreed to several changes with the Cook Inlet Region concerning section 4, which deals with the CIRI/Gold Creek Settlement. As indicated on attachment 2, our proposed amendment to section 4 of the bill, the last three lines of our original proposal are deleted, and new language has been substituted.

In addition, we have reached a consensus with the AFN and the State of Alaska on some changes to our proposed amendatory language to section 9 of the bill, concerning section 905 of ANILCA. These changes are indicated on attachment 3.

As you know, the House version of the bill, H.R. 2000, is similar, indeed identical to yours in many respects, except that it does not contain the four provisions (sections 8 and 12–14) of the Senate bill to which we so strongly object. Without those provisions, we are very close to a bill that represents a consensus of the interested parties, an approach we have tried so hard to achieve in recent years with ANCSA legislation.

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

Sincerely,

SYLVIA V. BACA,
Deputy Assistant Secretary,
Land and Minerals Management.

Enclosure.

Section 2. As this provision applies only to the Native Regional Corporation Doyon, Limited (Doyon), the following changes to the language, *as agreed with Doyon,* are recommended as an amendment to the language in S. 967 (changes in *bold*):

"SEC. 2. RETAINED MINERAL ESTATE.

"Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4) is amended—

"(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

"'(C) Where such public lands **[**are**]** *were withdrawn pursuant to subsection 11(a)(1), and were not available for selection according to paragraph (3) of this subsection, but are* **[**surrounded by or**]** contiguous to subsurface lands obtained by *Doyon, Limited, (Doyon) from the United States,* **[**under subsections (a) or (b), the Corporation**]** *Doyon may select, and* upon request, have such public land conveyed to it.

"'(D)(i) **[**A Regional Corporation which**]** *If Doyon* elects to obtain public lands under subparagraph (C) it shall be limited to a *combined* total of not more than 12,000 acres *under subparagraphs (A), (B), and (C).* Selection by **[**a Regional Corporation**]** *Doyon* of in-lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

"'(ii) An election *by Doyon* to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located *and charged to its 12(c) entitlement, and*

["'(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional Corporation' shall refer only to Doyon, Limited.'; and**]**

"(2) in subparagraph (E) (as so redesigned), by striking '(A) or (B)' and inserting '(A), (B), or (C)'."

Rationale:

(1) In paragraph (C), the additional language is consistent with statutory amendments established by 1403 of ANILCA.

(2) It is clearer to substitute "Doyon, Limited" for "regional corporation' rather than defining what that means.

(3) In paragraph, (C), we propose deletion of the terms "surrounded by". The proposal separates the terms "surrounded by" and "contiguous to" by the word "or". These are disparate terms. The terms "surrounded by" is ambiguous and would require difficult interpretation as to how close or how far. The term contiguous is clear.

(4) Paragraph (D) mentions 12,000 acres. The new words are added to clarify the intent of a combined total of 12,000 acres.

Section 4. CIRI and the Department have agreed to the following proposed language changes as an amendment to the language in S. 967 (changes in *bold*):

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to [in-lieu] subsurface estate are hereby provided to CIRI. Within *one* year from the date of enactment of this subsection, CIRI shall select 3,520 acres of land from the area designed for [in-lieu] selection by paragraph I.B.(2)(b) *(Talkeetna Mountains)* of the document identified in section 12(b) of the Act of January 2, 1976 (43 U.S.C. 1611 note).

"Not more than five selections shall be made under this paragraph., and each tract shall be reasonably compact and in whole sections except as separated by unavailable lands and except where the remaining entitlement is less than a whole section."

Rationale:

(a) "One" is spelled out;

(b) The term Talkeenta Mountains clarifies what is referenced in I.B.(2)(b) of the Terms and Conditions document;

(c) The second paragraph is language consistent with 14(h)(9), added by 1406 of ANILCA;

(d) The term "in-lieu" is deleted because this is a new entitlement, not in-lieu of a previous entitlement.

Section 9. The wording below, agreed to by the AFN and the State, is offered as an amendment to the language in H.R. 2000. The language offers an alternative that (1) allows for legislative approval of Native allotment applications that were protested by the State of Alaska and the protests were later withdrawn, and (2) restores DOI jurisdiction, and thus prospectively restores BLM's authority to protect pre-existing access routes across applications that would be legislatively approved pursuant to this amendment. (Changes in *bold*).

Proposed amendatory language:

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

"(7) Paragraph (1) of this subsection and section (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) that is open and pending on the date of enactment of *subsection (a)(7),*

"(B) if the lands described in the application are in Federal ownership *other than as a result of reacquisition by the United States after January 3, 1959,* and

"(C) if any protest which was filed by the State of Alaska pursuant to subsection (5)(B) with respect to the application is withdrawn or dismissed either before or after the date of enactment of subsection (a)(7).

"(C) Any allotment application which is open and pending and which is legislatively approved by enactment of subsection (a)(7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy. The jurisdiction of the Department is hereby extended to make the factual determination required by this subsection."

Note: the parties have agreed that the following sentence should be entered into the record *as legislative history* to reflect the intended meaning of the phrase "open and pending": *"The phrase 'open and pending' means that the application has not been closed by a relinquishment, a final decision of rejection, or a conveyance."*

STATEMENT OF DEBORAH L. WILLIAMS, SPECIAL ASSISTANT TO THE SECRETARY FOR ALASKA, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on S. 967, which would amend the Alaska Native Claims Settlement Act (ANCSA) and the Alaska National Interest Lands Conservation Act (ANILCA).

While there are a number of provisions in S. 967 with which we agree, there are also several provisions which we strongly oppose, and that would be grounds for the Secretary of the Interior and the Secretary of Agriculture to recommend a veto if they remain in the bill. We could support a bill if certain important deletions and modifications were made.

This Administration has worked closely with Congress over the past four years to develop and support needed and appropriate technical changes to ANCSA. A package of ANCSA technical amendments (Public Law 104–42) was signed by the President in 1995. Last year, H.R. 2505, which was supported in its final form by the Administration, passed the House but failed to pass the Senate. Many of the provisions of that bill are included in S. 967. As you

know, we spent hundreds of hours during the last two years working with the AFN, the State and other interested parties to achieve that consensus-based ANCSA technical amendments package last year. If needed, we would gladly participate in further discussions with the parties and this Committee to achieve a consensus bill again.

However, a number of the additional sections in S. 967 propose amendments to ANILCA and ANCSA to which the Administration strongly objected in the last Congress. For instance, as you know, last year the Secretaries of Interior and Agriculture threatened to recommend a veto of the "landless Natives" provisions proposed but not included in H.R. 2505 and now included as section 8 of S. 967. The same position and rationale applies this year.

Last year, both Secretaries also threatened to recommend a veto of legislation (S. 1920), which would have upset ANILCA's balances between conservation and development, resource protection and resource use, and subsistence uses and recreational activities. Some of those provisions are included in S. 967. The Administration continues to believe that ANILCA provides the tools necessary for successful implementation without the proposed statutory changes. We believe we can resolve issues administratively working together with our Alaska land managers.

Sections 1 through 4, 6, 7, 9, 10, and 15 are amendments to ANCSA and ANILCA which have been developed with the participation of the Department of the Interior, the Alaska Federation of Natives (AFN), the State of Alaska, and others. Most of these we support or do not oppose; we recommend some further revision of sections 4 and 9 and need further information on 5 before we can render a position. We strongly oppose Section 8 amending ANCSA, and several sections (12–14) amending ANILCA, which are unacceptable to the Administration.

To facilitate presentation of our views and to reduce the length of my testimony we have provided you with a written Appendix to this prepared testimony. The Appendix presents more detailed section-by-section analysis and where appropriate, suggestions for revisions.

The Administration supports Section 1 of S. 967, which provides land bank protection for lands received from certain Federal agencies, lands exchanged among Native Corporations, and actions by a trustee serving pursuant to agreement of Native Corporations.

The Administration does not oppose Section 2, which allows Doyon, Limited (a Native Regional Corporation), to elect to take reserved minerals under small parcels patented to individuals under the public land laws, including the 1906 Native Allotment Act, within lands conveyed to Doyon villages. The provision only affects Doyon. The Department of the Interior and Doyon have worked closely since the last Congress to achieve an acceptable revision to broader language in earlier bills which we did not support.

Authority already exists for Doyon to elect conveyance of certain reserved mineral estate from small parcels located within lands conveyed to a Regional Corporation. This amendment would appropriately cap Doyon's elections within 12(a) and 12(b) areas to 12,000 acres. There is not current acreage limitation on the number of acres elected from areas surrounding conveyances under Section 12(c). We concur in this proposal since it is generally in the Department's interest not to retain small isolated tracts of mineral estate.

The Administration supports Section 3, which excludes cash dividends on bonds issued to shareholders by Native Corporations, from resources used for determining eligibility for entitlement programs such as food stamps or supplemental security income (SSI) benefits.

The Administration does not oppose Section 4, which provides 3,520 acres of subsurface estate in the Talkeetna Mountains to meet selections of the Cook Inlet Region under this amendment and the Gold Creek settlement set forth under P.L. 102–415. However we have proposed some amendatory language which we believe is more correct.

The Administration cannot take a position on Section 5 at this time due to lack of necessary information. Section 5 deals with the Calista Land Exchange established by P.L. 102–172 and will provide funds for the Calista Corporation to further the goals of the Corporation through the purchase of Native-owned subsurface and surface lands within the Yukon Delta National Wildlife Refuge boundaries in southwest Alaska. Additional information is necessary, to include maps and legal descriptions of lands or interests in lands being offered. We are continuing to work closely with Calista and to obtain additional information on this proposal as we speak, and we are hopeful that the mutually agreeable solution is close at hand.

The Administration has no objection to Section 6, which gives certain Regional Corporation-level provisions to the Haida Village Corporation and the Haida Traditional Use Sites lands. We have worked with Haida to obtain an acceptable revision of language in earlier bills.

The Administration has no objection to Section 7, since the issue of sharing revenue from the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources is internal to the Native Corporations.

The Administration strongly opposes Section 8, which seeks to establish additional Native Corporations in Southeast Alaska. As we have firmly stated in the past, each of the five communities in Southeast Alaska listed in this amendment have been considered for village status during the formulation of ANCSA and none met the general statutory criteria for eligibility. Changing the criteria now will start a chain of future exceptions and the potential unraveling of the long settled Alaska Native claims. There are additional comments in the Appendix to this testimony,

and we are also providing to the Committee copies of the joint letter of the Departments of Interior and Agriculture in July of 1996 to the Congress on this subject, threatening to recommend a veto of similar legislation in the last Congress. Both the Secretaries of Interior and Agriculture will continue to recommend veto of such a provision this year.

The Administration supports the intent of Section 9, which amends ANILCA Section 905 by legislatively approving about 200 native allotment applications (400 parcels) which had previously been protested by the State of Alaska and for which the State's protests were later withdrawn. We are offering some revised wording which we believe will facilitate legislative approval of allotment applications while appropriately protecting the State's prior existing rights.

The Administration supports Section 10, which amends ANILCA Section 1307 by providing wider latitude in determining affected Native Corporations in the provision of visitor services on Conservation System Units (CSU's). This section sanctions regulatory changes made last fall by bureaus of the Department to improve opportunities for Native participation in providing concession services on CSUs.

The Administration is opposed to Section 11, which legislates specific federal land manager training concerning ANILCA. As indicated in the Appendix, we are currently providing annual two-day training sessions on ANILCA, ANCSA, and the Statehood Act. We believe that training should be an administrative, not legislative, matter.

The Administration strongly opposes Sections 12 through 14 for the reasons known to this Committee and described in further depth in the Appendix to this testimony. Our strong opposition to these provisions was described in our testimony last year on S. 1920, in which we announced we would recommend a veto of such legislation if it passed the Congress. Sections 12–14 are unnecessary and would disrupt the extraordinary balances achieved in ANILCA. ANILCA is an historic compromise, a milestone in conservation legislation which delicately balances competing interests such as conservation and development, resource protection and resource use, and subsistence uses and recreational activities.

ANILCA puts in trust for future generations extraordinary features of America's last frontier, largely as additions to our National Parks, National Wildlife Refuges, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation systems. In the words of this Committee's 1979 report, the conservation system units in Alaska protect, among other things, "a full range of nature and history— * * *, mighty landforms and entire ecosystems of naturally occurring * * * processes, intricate waterforms and spectacular shorelines, majestic

peaks and gentle valleys, diverse plant communities and equally diverse fish and wildlife."

Heeding the advice of the 96th Congress, this Administration has continued to move forward with implementation of the existing law. Where controversy or conflict has arisen, we have tried to address the problems rationally and fairly. The Administration is committed to using the tools provided in ANILCA and working with all interested parties to solve problems and make progress with ANILCA's carefully structured balance.

Sections 12–14 would subvert important purposes of ANILCA and would obstruct and further complicate viable management options which already exist.

Section 12 provides for subsistence uses in the Glacier Bay National Park; uses which have not been authorized since the Park was established as a national monument more than 70 years ago. In the development of ANILCA, Congress specifically decided against allowing subsistence in the Glacier Bay National Park and the other "old" national park areas (e.g. Mt. McKinley and Katmai), while allowing subsistence in certain new parks. Although the Administration opposes the authorization of subsistence uses—including hunting, trapping, and timber harvesting—in Glacier Bay National Park, the Administration is working cooperatively with local residents to recognize and protect cultural and educational traditions.

Section 13 amends a variety of access provisions in ANILCA in developing ANILCA, Congress carefully crafted provisions to govern the special circumstances of Alaska's large conservation system units concerning matters of transportation routes and methods, and access to inholdings. These provisions have protected the values and purposes of these areas while providing for appropriate access. Changes to these provisions will damage important land use values and are unwarranted for the many reasons further explained in the appendix.

Section 14 inappropriately extends additional possessory interests to the owners of cabins or other structures in trespass, removes the need to dismantle seasonal structures, essentially making them permanent, and expands the use of mechanized vehicles on conservation system units, much to the detriment of the purposes of the units.

Again, the Administration is strongly opposed to sections 12–14. The Administration has no objection to the local hire report required by Section 15, In light of limited resources, 18 months would be a more reasonable time to prepare such an in-depth report.

Again, I thank the Committee for this opportunity to testify on S. 967. There is a strong tradition of initiating and passing consensus ANCSA technical amendment packages to meet specific needs. This process has worked for may years. This package contains a number of agreed provisions that will advance the public interest and were scheduled for passage last year. There are several other

provisions on which we believe consensus can be readily achieved. It is unwise to subvert this consensus mechanism by burdening this legislation with controversial and unacceptable amendments. Continued inclusion of Sections 8, 12, 13 or 14 will cause the Secretaries of both the Interior and Agriculture to recommend a Presidential veto. Without them, we are very close to another consensus package. We look forward to working with you to achieve a bill we can all support.

APPENDIX TO STATEMENT OF DEBORAH L. WILLIAMS, SPECIAL ASSISTANT TO THE SECRETARY OF ALASKA, U.S. DEPARTMENT OF THE INTERIOR

SECTION-BY-SECTION ANALYSIS

Section 1. Automatic land bank protection

(Amends ANILCA section 907—Alaska land bank)

The Administration supports this section, which provides land bank protection for lands received from certain Federal agencies, lands exchanged among Native Corporations, and actions, by a trustee serving pursuant to agreement of Native Corporations.

Section 2. Retained mineral estate [Doyon]

(Amends ANCSA section 12—Native land selections)

The Administration does not oppose Section 2 which allows Doyon, Limited (a Native Regional Corporation) to elect to take reserved minerals under small parcels patented to individuals under the public land laws, including the 1906 Native Allotment Act, within lands conveyed to Doyon villages. The provision only affect Doyon. The Department of the Interior and Doyon have worked closely since the last Congress to come up with an acceptable revision to broader language in earlier bills which we did not support.

Authority already exists for Doyon to elect conveyance of certain reserved mineral estate from small parcels located within lands conveyed to a Regional Corporation. This amendment would appropriately cap Doyon's elections within 12(a) and 12(b) areas to 12,000 acres. There is no current acreage limitation on the number of acres elected from areas surrounding conveyances under Section 12(c). We concur in this proposal since it is generally in the Department's interest not to retain small isolated tracts of mineral estate.

Section 3. Clarification on treatment of bonds from a native corporation

(Amends ANCSA section 29—Relation to other programs)

This section provides for the exclusion of the value of bonds issued by Native Corporations to shareholders, or income therefrom, in determining eligibility for food

stamps or other federal entitlement programs such as supplemental security income. The Department supports this section.

Section 4. Amendment to Public Law 102–415

(Amends section 20 of the Alaska Land Status Technical Corrections Act of 1992 [Gold Creek/CIRI])

The Administration does not oppose this section. The language specifies that the Cook Inlet Region, Incorporation (CIRI) Native Regional Corporation will receive subsurface in the Talkeetna Mountains and not from the Kenai National Wildlife Refuge of the Gold Creek-Susitna, Inc. (Gold Creek) settlement.

This amendment appropriately specifies that section 14(h)(2) entitlement will be charged. Consequently, there will be less entitlement for the other 11 regions under section 14(h)(8) of ANCSA.

The BLM recently completed a land status review and determined that adequate acreage in the Talkeetna Mountains is available for this action. The following language is offered to substitute for the language proposed in S. 967. The differences are shown in italic face type. The reason for the differences are:

(a) "one" spelled out is more correct

(b) the term Talkeetna Mountains clarifies what is referenced in I.B.(2)(b) of the Terms and Conditions document.

(c) the second paragraph is language consistent with 14(h)(9), added by 1406 of ANILCA.

Proposed Amendment:

"(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to in-lieu subsurface estate are hereby provided to CIRI. Within *one* year from the date of enactment of this subsection, CIRI shall select 3,520 acres of land from the area designated for in-lieu selection by paragraph I.B.(2)(b) *(Talkeetna Mountains)* of the document identified in section 12(b) of the Act of January 2, 1976 (43 U.S.C. 1611 note).'.

"Selections made under this paragraph shall be in a single and reasonably compact tract except as separated by unavailable lands and shall be in whole sections except where the remaining entitlement is less than 640 acres."

Section 5. Calista Corporation land exchange

(Amends section 8126 of Public Law 102–172)

The Administration has no position on this section at this time. The amendment references the CCRD as the document describing the lands Calista is offering. The Department wants to clarify several matters; first, that the draft CCRD we now have is the final version.

The Department needs additional information in order to assess fully the lands package. For example the Department does not have any language which describes the subsurface conservation easements which Calista proposes to convey. These new lands and interests were not included in the previously conducted appraisals for the exchange. The removal by Calista of the potentially gold bearing subsurface lands of the Tulusak River Drainage and substitution of other lands apparently decreases the value of the package to the United States. The FWS has not seen the terms of the offered conservation easement to know what resource protection interests are being offered in the easement. Also, the Department needs confirmation from the villages that they are in agreement with the CCRD Addendum.

The amount of money Congress would be providing Calista, if based around the sum provided in paragraph 6 of the CCRD addendum, would include recognition of significant cultural, health and economic considerations set forth in the findings.

Final comments on this proposal can only be made after verification of the information contained in this CCRD document and a review of the maps, legal descriptions and other information concerning the lands or interests in lands that are being offered. We may have further amendatory language to suggest to refine the proposal.

The Department suggests a reasonable increment of time from filing of the final document i.e., "6 months from the receipt of the final document by the DOI" be substituted for the specific January 1, 1998 date. Likewise, other "action" dates in this amendment should be shown as an appropriate number of months after an action rather than specific calendar dates in the event that passage of this amendment is delayed.

We are continuing to work closely with Calista on this proposal and we are hopeful that the solution is close at hand.

Section 6. Mining claims [Haida]

(Amends ANCSA section 22—Miscellaneous)

The Administration has no objection to this proposed section which gives certain Regional Corporation-level provisions to Haida Corporation and the Haida Traditional Use Sites lands. The Department has worked with Haida to develop an acceptable revision to language in earlier bills which the Department opposed. Haida acquired subsurface rights in the lands at issue under earlier legislation; this is why Haida needs the same protections concerning mining claims as those provided to regional corporations under section 22(c) of ANCSA.

Section 7. Sale disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources.

(Amends ANCSA section 7—Regional corporations)

The Administration has no objection to this section which concerns not sharing revenue from certain Regional Corporation resources. This issue is internal to the Native Corporations.

Section 8. Establishment of additional native corporations in southeast Alaska

(Amends ANCSA section 7—Regional corporations; Section 8—Village corporations; and Section 16—The Tlingit-Haida settlement)

The Administration strongly opposes this amendment. Each of the Native Villages of Haines, Ketchikan, Petersburg, Wrangell, and Tenakee was considered during the formulation of ANCSA and found not eligible for village corporation status. These determinations were reviewed in 1994 by a congressionally-funded study, by the University of Alaska Anchorage-Institute of Social and Economic Research (ISER).

The enactment of this amendment would constitute a reopening of ANCSA by relaxing the well though-out eligibility requirements to receive village benefits, not only in southeast Alaska, but set a precedent for similar actions throughout the state. There is no equitable or legal justification for Congressional recognition of these communities in southeast Alaska, or elsewhere, as new corporations under ANCSA for some reasons such as the following:

There is no inequity in ANCSA to redress. Each of the five communities was considered for village status during the formulation of ANCSA and none met the requisite statutory criteria for eligibility.

Natives in the 5 communities are enrolled as "at-large" shareholders in the Sealaska Corporation. They have received fair and substantial financial benefits of the original ANCSA settlement.

Recognition of the five communities in southeast Alaska would itself effect an inequity among other similar communities elsewhere in Alaska.

Recognition of the five communities could reopen the entire settlement scheme of ANCSA and result in a never ending and unattainable effort to reach total equality of treatment among all Natives in all communities.

Not withstanding the above, it is obvious that recognition would lead to increased national expense in the form of additional land entitlement, loss of revenue from federal property, or outright cash payments.

Section 9. Alaska Native allotment applications

(Amends ANILCA section 905—Alaska Native allotments)

The Administration supports this amendment with some minor changes. The State of Alaska, since the last proposal (H.R. 2505 of the 104th Congress), has told BLM they were unaware that when a parcel had been approved under the 1906 Native Allotment Act rules (including reserving a granted right-of-way), and was also deemed legislatively approved under Section 905 of ANILCA, that BLM could not make the allotment subject to the granted right-of-way. Case law from the IBLA holds that BLM loses jurisdiction to adjudicate the allotment (including reserving ROWs) when legislative approval occurred.

The wording below is offered as an amendment to the language introduced in S. 967. The language offers an alternative that (1) allows for legislative approval of Native allotment applications that were protested by the State of Alaska later withdrawn, and (2) prospectively restores BLM's authority to protect pre-existing access routes across applications that would be legislatively approved pursuant to this amendment. The differences from the language in the current S. 967 are in italic-face type.

Proposed amendment language:

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

"(7) Paragraph (1) of this subsection and section (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

"(A) this is open and pending *and not previously approved, either legislatively or administratively,* on the date of enactment of *subsection (a)(7),*

"(B) if the lands described in the application are in Federal ownership *other than as a result of reacquisition by the United States after January 3, 1959,* and

"(C) if *any* protest which was filed by the State of Alaska pursuant to subsection (5)(B) with respect to the application *is withdrawn or dismissed either before or after the date of enactment of subsection (a)(7).*

"(D) Any allotment application which is open and pending and not previously approved, either legislatively or administratively, and which is legislatively approved by enactment of subsection (a)(7) shall, when allotted, be made subject to any easement or right of way in existence on the date of the Native allotment applicant's commencement of use and occupancy. The United States will not be required to determine the validity of any right of way claimed under Revised Statue 2477."

Section 10. Visitor services

(Amends ANILCA section 1307—Revenue producing visitor services)

The Administration supports this proposed section which provides wider latitude in determining affected Native Corporations. Bureaus of the DOI issued regulations last fall that provided for this important change, which will now be legislatively sanctioned. The bureaus are actively seeking Native Corporation participation in providing concession services on Conservation System Units as opportunities arise. This amendment will allow participation of a larger number of corporations, leading to increased employment opportunities for Alaska Natives and expansion of local economies.

Section 11. Training of Federal Managers

(Amends ANILCA section 101—Purposes)

The Administration opposes this amendment. While we agree that managers should be well versed in ANILCA, we believe that training should be an administrative, not a legislative, matter. Legislation is an inflexible and inappropriate way to outline the specifics of federal land mangers' training.

Moreover, this legislation is unnecessary. In the past 2 years, the Department has expanded its ANILCA training programs as well as its commitment to providing appropriate training early in an employee's Alaska experience. For example, two-day ANILCA training sessions were presented in January and November 1996, and will continue to be offered annually. The Department produced an 80-minute training videotape, and is now requiring DOI managers, new to Alaska, to view this videotape shortly after they arrive on duty. Informational videos and a video-based study package are in production for utilization between the more formally structured annual classes. Furthermore, the Department presented in October 1996 a comprehensive two-day training program on the Alaska Native Claims Settlement Act (ANCSA) and the Alaska Statehood Act, which was taped and will also be required for viewing by DOI managers and employees new to Alaska. The next two-day ANILCA training is scheduled for November 18–19, 1997; the next two-day ANCSA class with the Alaska Statehood Act is scheduled for October 28–29, 1997.

Section 11 contains terms whose meaning is unclear, including "all Federal public land managers in Alaska." That term would presumably include representatives of any Federal agency in Alaska, such as Interior, Agriculture, Defense, FEMA, FAA, Coast Guard, and others.

The Department is committed to providing excellent and timely training on ANILCA, ANCSA, and the Statehood Act to its managers in Alaska, and other agencies should

be permitted to assess their own needs for training. Legislation on this issue is neither necessary nor appropriate.

Section 12. Subsistence uses in Glacier Bay National Park

(Amends ANILCA section 202—Additional to existing areas)

The Administration strongly opposes this amendment. As written, the proposal would amend ANILCA Section 202(1) and allow subsistence uses by local residents in Glacier Bay National park pursuant to Title VIII of ANILCA. This would potentially allow in the park: timber harvest, hunting and trapping of wildlife, the collection of animal and vegetal materials, the use of nets, fish wheels, and other means of catching fish in both fresh and marine waters, and the establishment of camps. With few exceptions (e.g., seal hunting after World War II and the ample and diverse fishing opportunities that continue today), such consumptive uses have not been authorized in Glacier Bay National Park since designation as a monument more than seventy years ago. While specifically authorizing the opportunity for subsistence uses by local residents in several park areas in ANILCA, Congress decided against authorizing subsistence in Glacier Bay National Park. Finally, this amendment is likely to be counterproductive to the Department's current efforts to develop measures that accommodate administratively—under existing Federal and State law—the cultural concerns of local Native interests in Glacier Bay national Park. This same amendment was opposed last year by the Hoonah Indian Association because it was found to be overly broad in scope and could be inclusive of people with no traditional or cultural ties to the Park for use of natural resources.

Section 13. Access rights

(Amends ANILCA sections 1105, 1110 and 1315)

Section 13(1) amends ANILCA Section 1105—Standards for granting certain authorizations

The Administration strongly opposes this amendment which would establish economics as the sole determinative factor to be applied when ascertaining whether there is an "economically feasible and prudent alternative route" to a transportation or utility system (TUS) across a conservation system unit. This amendment would require that a transportation or utility system (e.g., highway, pipeline, railroad, airport) go through the conservation system unit if the alternative outside route were to any degree less economically feasible and prudent. Thus, this amendment would essentially reverse ANILCA's current preference for routing transportation and utility systems outside conservation system units if possible, and if not, for selecting an alternative route and method which would result in fewer or less severe impacts. See ANILCA § 1104(g)(2)(B).

Significantly, all the diverse parties involved in the Title XI litigation (*Trustees for Alaska* v. *Dept. of the Interior*, 9th Cir. 93–35493) have consented to a revision in the Department's existing regulatory definition of the term "economically and feasible alternative route" that is essentially at odds with this proposed section. (This proposed revision is the only change of the 1986 Title XI regulations that all the parties support.) The revision would more likely facilitate decisions consistent with ANILCA's preference for routing a transportation or utility system outside a conservation system unit.

Section 13(2) amends ANILCA section 1110(a)—Special access

The Administration strongly opposes this amendment which would impose several restrictions on the Secretary's ability to protect the purposes and values of conservation system units in Alaska.

ANILCA § 1110(a) currently allows certain modes of transportation, which Congress judged less environmentally harmful than other modes, to be used in conservation system units for traditional activities and travel to and from homesites and villages. ANILCA § 1110(a) also authorizes the imposition of closures to such uses, following compliance with procedures that assure notice and hearing in the affected area and a determination that the transportation uses would be detrimental to the conservation system unit's resource values. Thus, ANILCA struck a careful balance that allows traditional transportation uses, protects the conservation system units, and assures local process for decision-making. In fact, the land-managing agencies have used the Section 1110(a) closure authority sparingly. Moreover, the recent comprehensive review of the 1986 Title XI regulations, conducted in consultation with a broad spectrum of interested Alaskan parties, resulted in no revisions to the ANILCA § 1110(a) provisions.

This amendment would further condition the reasons for, scope of, and procedures prerequisite to a closure under ANILCA § 1110(a), interfering with sound resource management and raising ambiguities and opportunities for litigation. The proviso concerning "preexisting use" is unnecessary, since the recently reaffirmed Title XI regulations do not require such a demonstration. On the other hand, this proviso could prove unduly restrictive, since some consideration of generally occurring prior uses could be helpful in determining the meaning of "traditional activities" under ANILCA § 1110(a). See Sen. Rept. No. 413, 96th Cong., 1st Sess. at 248. The proviso concerning "smallest area practicable" and "smallest period of time" is unwarranted, lacking any compelling need for these restrictions. In addition, it is our opinion that these terms would invite costly litigation. Finally, the requirement for prior consultation with the State of Alaska is unnecessary, since the land-managing agencies—in addition to carrying

out the notice and hearing requirements set forth in ANILCA § 1110(a) and the Department's implementing regulations—routinely consult with the State before implementing access closures. Indeed, existing laws, regulations, memoranda of agreement, and policies already ensure coordination or consultation with the State prior to implementing any closure of Federal public lands to the modes of transportation covered by ANILCA § 1110(a).

Section 13(3) amends ANILCA section 1110(b)—Access to inholdings

The Department strongly opposes this amendment. Since the Department already interprets ANILCA § 1110(b) as guaranteeing adequate and feasible access to inholdings for economic and other purposes, it is unclear why this amendment is necessary or even what it would do. The language gives rise to more questions than answers. The ANILCA § 1110(b) provisions have been carefully reviewed over the last three years, culminating in the reaffirmation of the 1986 regulations interpreting and implementing this section, without objection from any of the diverse parties who have been involved in the major litigation concerning this and other provisions of Title XI.

Section 13(4) further amends ANILCA section 1110(b)

The Administration strongly opposes this amendment which prohibits the Secretary from imposing unreasonable fees or charges, and exempts inholders under this section from the requirements of Sections 1104, 1105, 1106 and 1107. The direction to the Secretary that he cannot impose "any unreasonable fees or charges" is unnecessary, since the Secretary's action is subject to the rule of reason. This amendment would serve only to encourage litigation concerning the meaning of "unreasonable." The Department must generally charge for use of lands and recover the costs of processing applications for rights of way. Charges are based on the fair market value of specific uses granted to the applicant and the cost to process applications.

With respect to the applicability of Sections 1104, 1105, 1106, and 1107, persons seeking access to their inholdings are not subject to the transportation and utility system approval standards set forth in these sections since adequate and feasible access to inholdings is guaranteed under Section 1110(b).

Nevertheless, if a transportation or utility system is required as part of the adequate and feasible access guaranteed by Section 1110(b), certain information requirements and analysis developed as part of Standard Form 299 for transportation and utility systems under Section 1104 through 1107 may be necessary for reaching the required determinations under Section 1110(b). These determinations include identifying the method and route of access that constitutes adequate and feasible access to inholdings,

and specifying any reasonable regulations necessary to protect the natural and other values of the potentially affected conservation system units.

Section 13(5) amends ANILCA section 1315—Wilderness management

The Administration strongly opposes this amendment, which would create a new exception to wilderness management in Alaska by authorizing the Secretary of Agriculture to generally permit helicopter use and landings in Alaska units of the National Wilderness Preservation System. In section 1110(a) of ANILCA, Congress specifically allows "airplanes," but not helicopters, in Alaska wilderness areas. The Wilderness Act generally prohibits aircraft use in wilderness areas but contains certain specific, limited exceptions to the prohibition on use of aircraft, including helicopters, in appropriate circumstances. All of the land managing agencies in Alaska have prohibited general helicopter use in wilderness areas consistent with the ANILCA and the Wilderness Act.

We are very concerned about the adverse precedent this amendment will set in the management of the National Wilderness Preservation System. This amendment is contrary to the intent of Congress in establishing wilderness areas, to be managed by the Secretary of Agriculture and the Secretary of the Interior, to maintain the natural and primeval character of wilderness, as well as maintain opportunities for primitive recreation. This amendment would jeopardize these goals.

Section 14. Use of cabins and allowed uses

(Amends ANILCA Section 1303—Use of cabins and other sites of occupancy on conservation system units, and Section 1316—Allowed uses)

Sections 14 (1)–(4) amend ANILCA section 1303

The Administration strongly opposes these amendments to ANILCA § 1303, based on the considerations of fairness that support Section 1303's existing provisions.

With respect to sections 14(1) and 14(2), in accordance with ANILCA § 1303, the builders of trespass cabins on public land before 1973 have been given five-year renewable permits to allow the continued use of these structures on public land. The deal struck in ANILCA was to allow the continued use of these cabins as part of the "Alaska lifestyle," but to terminate private, exclusive use when the original family stopped using the cabin. Permits were nontransferable for this very reason. ANILCA's fair compromise contemplated the eventual conversion of appropriate trespass cabins to public use. Accordingly, ANILCA provided that when the cabins were vacated, ownership would remain with the government. Consistent with existing law, all applicants agreed to vacate the structure when the permit expired. This agreement was required by Sec-

tion 1303 and occurred when the application for the permit was made. The application process concluded long ago.

The proposed amendments could create expectations in permit holders that they have a compensable and perpetual interest in the trespass cabins. In addition, the proposed amendments could delay conversion to public use facilities of those cabins already abandoned by the original applicants, and could hinder the land-managing agencies' ability to remove dilapidated structures in the interest of public safety.

The portion of Section 14(4) that would authorize alterations to cabins is unnecessary and potentially contrary to the public interest. We support the continuation of the "bush" lifestyle, including minor alterations to trespass cabins, but the eventual public conversion or removal of these structures from public lands was an essential part of the deal struck in ANILCA. This amendment could allow the "bush cabin" to be converted into a commercial lodge or other uses that have no traditional or appropriate relationship to the conservation unit. Evaluating whether an alteration to a cabin constitutes a "significant impairment" to the park's purpose would likely be a costly and time-consuming effort.

Sections 14(5) and (6) amend ANILCA section 1316—Allowed uses

The Administration strongly opposes these amendments. This proposal would add the phrase "including motorized and mechanical equipment" to describe the equipment allowed as directly and necessarily related to the taking of fish and wildlife. The proposed change is not needed; moreover, the language could be misinterpreted to suggest that motorized and mechanized equipment shall routinely be allowed in all conservation system units. The existing language of ANILCA § 1316 already allows motorized and mechanized equipment in some management categories of conservation system units. Use of certain motorized and mechanical equipment, however, is constrained with respect to national wilderness areas by the Wilderness Act. The Department believes that it was Congress' intent to limit the use of motorized and mechanical equipment in designated wilderness areas, except to the extent that ANILCA established special exemptions for Alaska. For example, these carefully considered exemptions include an express authorization for use of airplanes, snowmobiles, and motorboats as set forth in ANICLA § 1110(a). Indeed, this proposal could be construed by some to authorize the use of motorized vehicles other than airplanes, snowmobiles and motorboats, such as all terrain vehicles, which have far greater potential for permanent resource damage in Arctic and Subarctic regions. For all these reasons, this proposal would upset ANILCA's wise balance, to the significant detriment of wilderness values in Alaska.

Currently the bureaus authorize the use of temporary facilities through the commercial and recreation permitting process. Use permits issued to guides and outfitters for hunting or fishing camps, generally require the permittee to dismantle the temporary facility at the end of the field season, and either cache the materials (often on site) for use next year, or remove the materials. The reasons for this requirement include: (a) so bears or other animals do not destroy the structures during the winter months; (b) to secure the materials from vandals or theft; and (c) to prevent permanent camps from being created at the discretion of the permittee. In our experience, the permittees often remove their materials from the site to secure them. In bush Alaska, where milled lumber and other camping material are at a low premium and expensive, many permittees choose to remove the material from the site so they have them in the spring. The authorized officer often permits structures to remain if there are no other problems, but the discretion should remain with the land manager, not with the permittee. The amendment could be interpreted to limit that discretion.

Section 15. Report

(Amends ANILCA section 1308—Local hire)

The Department has no objection to the preparation of this report concerning local hire, except that 18 months would be a more reasonable time to prepare such an in-depth report. For clarity of purpose, we suggest renaming the title of this section to read "LOCAL HIRE REPORT".

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 24, 1996.

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

DEAR MR. CHAIRMAN: In testimony delivered at a hearing before the House Resources Committee on June 11, 1996, on H.R. 2505, the Department of the Interior testified that the Secretaries of both Agriculture and Interior would recommend a Presidential veto of any legislation containing a "Landless Natives" proposal such as that formerly contained in S. 2539 in the 103rd Congress. We reiterate this position with respect to any so-called "landless" Natives legislation which would either recognize additional Native corporations in Alaska or provide a premise for the conveyance of additional Federal lands or money in furtherance of such new corporations under the Alaska Native Claims Settlement Act (ANCSA).

We are concerned that such a proposal might be appended to the so-called "Presidio" legislation, containing numerous land use measures, or to other legislation, now being considered by the Congress.

There is no equitable or legal justification for Congressional recognition of "landless" Natives in southeast Alaska or elsewhere as new corporations under ANCSA. We conclude this because:

There is no inequity in ANCSA to redress. Each of the five communities of Ketchikan, Petersburg, Wrangell, Tenakee Springs and Haines was considered for village status during the formulation of ANCSA and none met the general statutory criteria for eligibility.

Natives in the five "landless" communities are enrolled as "at-large" shareholders in Sealaska Corporation, have received fair and substantial equitable benefits of the original ANCSA settlement, and the dividends received by these at-large shareholders substantially exceed those paid by the regional corporations to village shareholders.

There are no "landless" Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates.

Recognition of the five "landless" communities in southeast Alaska would itself effect an inequity among other "landless" communities elsewhere in Alaska.

Recognition of the five "landless" communities could reopen the entire settlement scheme of ANCSA and result in a never-ending, extremely costly, and unattainable effort to effect total equality of treatment among all Natives in all communities.

These conclusions are not ameliorated by legislative proposals which would merely recognize the creation of the five corporations without addressing their ultimate entitlement to land. One proposal would amend section 14(h) of ANCSA by merely allowing Haines, Ketchikan, Petersburg and Wrangell to organize as urban corporations and allowing Tenakee to organize as a group corporation. Creation of such shell corporations with no assets merely sets the stage for their potential insolvency and later demands that the Federal Government provide them with a land base and other assets.

In 1993, Congress authorized the Secretary of the Interior to conduct a study of the entitlements of Natives in southeast Alaska with particular respect to Native populations in the communities of Haines, Ketchikan, Petersburg, Wrangell and Tenakee. The study subsequently prepared by the Institute of Social and Economic Research of the University of Alaska was inconclusive on the issue of equitable treatment. While the named five communities may not have received land, their treatment was like that of many other communities elsewhere in Alaska. Further, the study did not consider adequately the actual distribution of regional stock dividends to "landless" Natives.

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of over $900 million and conveyances of 40 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state,

there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. All recognized southeast villages had the opportunity to select timbered land, the value of which far exceeded the foreseeable values in the surface estate available to villages in the other eleven regions of Alaska. In addition, Natives in the southeast had received payments from the United States for the taking of their aboriginal lands. For these reasons, ANCSA specifically named the ten villages that were to be recognized in the southeast as opposed to subjecting the villages to a determination by the Secretary of the Interior of their eligibility prior to the receipt of any lands.

The proposed five "landless" communities meet none of the criteria for corporate recognition, that is, having a majority Native population, and not being modern or urban in character. None of the five has a Native majority and four out of the five are modern and urban in character. Tenakee has no actual Native residents and the enrollees only represent seven percent of the population of the community. Three of the communities appealed their status through the administrative processes prescribed by the Secretary of the Interior and were denied. Recognition of any of these five communities would substantially lower the standards set out in ANCSA for village recognition with implications elsewhere.

There are many "landless' villages in Alaska which do not meet the Act's criteria for eligibility to select land. In section 11(b)(1) of ANCSA, Congress listed more than two hundred villages which were presumed to be eligible villages unless the Secretary of the Interior determined otherwise under criteria set out in section 11(b)(2). Under section 11(b)(3), communities not named in section 11(b)(1) were provided with the opportunity to petition for an eligibility determination, but were presumed ineligible unless the Secretary found them eligible. Twenty-three named villages were found ineligible, and a number of unnamed villages could not prove their eligibility.

Once recognition of heretofore ineligible communities in the southeast is commenced, pressure will mount for similar treatment by other communities. For example, Anchorage and Fairbanks have larger Native enrollments than any of the communities now seeking recognition. There is no land available in either of those communities for granting a new corporation a land base.

An ANCSA is currently structured, recognition of the five communities as villages, urban or group corporations could also have a substantial impact on section 14(h)(8) entitlements of all twelve regional corporations. The land conveyed to urban and group corporations must be subtracted from the amount of land divided among the twelve regional corporations under section 14(h)(8). Consequently, the amount of land held by the regional corporations as a land-base for economic development and benefit to all the

stockholders of the regional corporation will be reduced. Two of the regional corporations, Cook Inlet Region, Inc. (CIRI) and Chugach Alaska Corporation, have settled with the Department in agreements ratified by the Congress for their section 14(h)(8) entitlements by receiving specified quantities of land in particular places. Therefore, the burden of the reduction will be borne by the remaining ten regions.

Additionally, we have also seen proposals which would recognize these communities as villages. If this approach is taken, the amount of land available for distribution under section 12(c) would be substantially reduced.

Some "landless" legislative proposals would exempt existing entitlements of regional corporations under section 14(h)(8). The result of such an exemption would be to substantially raise the cost of the overall ANCSA settlement beyond the original settlement package of 40 million acres. We oppose more public land being used to increase the size of the original settlement.

It is unclear how various recognition proposals would be affected by State selections. When ANCSA was originally passed, the State of Alaska and Congress knew that many villages would be without a land base unless lands selected by the State were made available for selection by the new village corporations. If landless Natives are provided land on a statewide bases, this cooperation will again become necessary. However, because the period of State selection is over, the State of Alaska may be unable or unwilling to cooperate with a new round of selections by newly created Native corporations.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives receive benefits from the ANCSA settlement. Natives enrolled in eligible village communities received one hundred shares of regional corporation stock, and one hundred shares in the village corporation organized for their community. Natives not enrolled in a village or a group are "at-large" stockholders in the regional corporation.

The regional corporations were instructed on how to divide any dividends they would declare. Natives who are members of villages are sent regional dividends for fifty percent of the per capita share of dividends to be divided. The other half of the dividend is sent to the village corporation. The village corporation subtracts part of the per capita dividend to be used for running the village corporation, and then declares a dividend on the remainder of the money received from the region.

Individual Natives who are enrolled in communities that were not eligible to the village corporations receive one hundred percent of the per capita dividend declared by the regional corporation. As a result, "landless" Natives receive much larger dividends than Natives enrolled in villages. No realistic assessment of true equity among affected Natives can be made without consideration of the

distribution of regional dividends, a subject not adequately considered in the Landless Native Study. The extra benefits received over the last twenty-five years by at-large stockholders compared to those received by village stockholders is a factor heretofore not considered in this debate.

Were additional corporations recognized by Congress, equity with other regional shareholders should require the potential members of those corporations to turn back their "at-large" stock in exchange for stock in the new corporations. Since this would have a substantial impact on the family economy of at-large stockholders, we believe that these people should be given time to consider these impacts before Congress considers any action to recognize new corporations and before these Natives are forced into a new corporate alliance.

Some current proposals which would allow the members of newly created corporations to continue to receive distributions as "at-large" shareholders create inequities among shareholders. Members of the new communities would get all the benefits of "at-large" membership, including receiving one hundred percent of per capita dividends, in addition to the potential benefits afforded as stockholders in land based Native corporations, thus creating new inequities.

No additional corporate recognitions should occur because of the substantial unknown land and fiscal liabilities which would be created by this new round of corporate recognitions. Every regional corporation has "at-large" stockholders who are "landless" Natives, and even if Congress recognizes the five communities in the southeast, Sealaska Corporation will continue to have "landless" at-large stockholders. Therefore, recognition of these five communities will become a precedent for other unrecognized communities in all twelve regions all demanding recognition along with more land and financial resources.

The recognition of additional Native corporations under the landless Natives rationale will also have substantial and unacceptable fiscal impacts on the Federal budget. Unlike village corporations, urban and group corporations are subjected to additional financial stresses because those corporations do not receive a share of regional dividends. All stockholders of urban and group corporations retain their status as at-large regional stockholders. It has been up to the Congress to infuse these financially strapped corporations with "start up" money, but these infusions have been insufficient to prevent the corporations from entering into hasty financial arrangements.

A subject unrelated to ANCSA concerns legislative proposals which would not only recognize Haines, Ketchikan, Petersburg, and Wrangell as urban corporations, and Tenakee as a group corporation, but would also give these communities and Sealaska the power to make recommendations for the Tongass Land Management Plan. Under the National Forest Management Act, affected state

and local governments, Indian tribes and native corporations, and the public are consulted in the preparation of land and resource management plans for the National Forests. All have a voice and an opinion which the Forest Service must consider, but none have deference over others. In southeast Alaska, the five communities and Sealaska already have a voice in the land management planning process. The Secretary of Agriculture advises that any legislation proposing to give outside parties power independently to impose recommendations on the Tongass Land Management Plan will subvert the land management planning process, delay adoption of the plan, and further unsettle the economy and stability of southeast Alaska.

In summary, efforts to reopen ANCSA settlements under the guise of equity will be costly to the American public and unsettling to public and private land allocations in Alaska. The proposed recognition of landless Native corporations will upset the entire settlement regime of ANCSA which has been so carefully and laboriously implemented over the last two decades. Recognition would not redress inequities but result in new ones among Native shareholders and among groups, villages and communities throughout Alaska.

The Secretaries of the Interior and Agriculture will recommend that the President not approve any legislation recognizing so-called landless Native corporations, or which grant Native corporations authority to impose recommendations on the Tongass Land Management Plan.

The Office of Management and Budget advises that the presentation of this report is in accord with the Administration's program.

Sincerely,

SYLVIA V. BACA,
Acting Assistant Secretary, Department of the Interior.

JAMES LYON,
Under Secretary, Department of Agriculture.

MINORITY VIEWS

I voted against reporting S. 967 because it contains several provisions which are very controversial and, in my view, not in the public interest. At the same time, there are other parts of the bill that are not objectionable and should be enacted. Many of the bill's provisions making changes to the Alaska Native Claims Settlement Act fall into this category. In fact, during the Committee business meeting, I proposed that these relatively non-controversial provisions be considered separately and reported unanimously. Unfortunately, my proposal was not agreed to and all these proposals remain linked together.

I am particularly concerned about the following provisions.

LANDLESS NATIVES

This provision would establish 5 new Native Corporations in Southeast Alaska. The Native residents of Haines, Ketchikan, Petersburg and Wrangell would be allowed to organize as Urban Corporations while the village of Tenakee would be authorized to organize as a Group corporation.

The bill is silent concerning what lands or other compensation these village corporations would receive as a result of their designation as Native corporations under ANSCA. Instead, the bill sets up a process whereby, not later than December 31, 1998, the Secretary of the Interior is to make recommendations concerning what compensation he thinks is appropriate. The bill also states that there is no entitlement to any federal lands for these new corporations without further congressional action. However, once these new corporations are recognized under ANSCA, there is no question that they will expect to be compensated in some fashion at some point in the future.

The Administration and others strongly oppose this provision. The Interior Department opposes it because of fears that it will reopen the entire settlement scheme of ANSCA and will be a precedent for other villages in southeast Alaska or elsewhere to seek legislative recognition of new corporations and the subsequent expectations of land or other compensation.

The Department also does not believe that there is any inequity in ANSCA to redress. These villages were not included in ANSCA in 1971 because they did not meet the requirements of the Act, namely that the village not be of a modern and urban character and that a majority of the residents be Natives. Others oppose the provision because of fears that the Natives will ultimately receive lands in the Tongass National Forest and will harvest the timber to raise revenue for the corporate shareholders. This is certainly what many other Native corporations in southeast Alaska have done with the lands they received under ANSCA.

The fact that the bill does not immediately convey lands really begs the question. Once the corporations are recognized under ANSCA they are entitled to compensation. It will be up to another Congress to decide what that compensation will be, but the enactment of this provision will all but guarantee that compensation will be forthcoming.

AMENDMENTS TO ANILCA

In addition to the ANSCA amendments, S. 967 includes several proposed changes to the Alaska National Interest Lands Conservation Act (ANILCA). Passed in 1980, ANILCA set aside over 100 million acres of parks wilderness areas, wildlife refuges and other protected lands in Alaska. Because of the sweeping scope of the bill and the grand scale of Alaska, the bill also included numerous special management provisions concerning access, the use of motorized equipment such as airplanes and snowmobiles, the use of cabins and other allowed uses.

The proponents of this legislation argue that the law is not being interpreted correctly by the current Administration and that some "technical" amendments are necessary. Several of the amendments, such as the one requiring federal land management personnel to undergo special training before working in Alaska, are not necessary but, neither are they highly objectionable. Other amendments, however, are not "technical" and would make many significant changes in the existing law.

For example, the language in section 13(1) would establish economics as the sole determinative factor to be applied when ascertaining whether there is an "economically feasible and prudent alternative route" to a transportation or utility system across a conservation system unit. This amendment would require that a highway or pipeline, for example, go through a conservation system unit if the alternative route outside the unit were to any degree less economically feasible.

This amendment would essentially reverse ANILCA's current preference for routing transportation and utility systems outside conservation units if possible, and if not, for selecting an alternative route and method which would result fewer or less severe impacts.

Another proposed change would create a new exception to wilderness management in Alaska (and perhaps prospectively to other states as well) by authorizing the Secretary of Agriculture to generally permit helicopter use and landings in national forest wilderness areas and national forest monuments designated in ANILCA and any subsequent Act. The Secretary is *required* to allow such use and landings in "emergency" situations.

Giving the Secretary of Agriculture the discretion to permit the use of helicopters in wilderness areas in some situations, and requiring him to do so in others, is a major policy issue * * * not a technical amendment to ANILCA.

Still another provision of S. 967 would significantly expand the provisions in ANILCA relating to trespass cabins located in units of the national park system in Alaska. The bill would allow significant expansion of these cabins beyond what was contemplated in the 1980 Act. It would also create the expectation that the permit

holders who occupy these cabins have a compensable and perpetual interest in these trespass cabins which is not the case.

Taken together, these and other provisions of S. 967 would make significant substantive changes to the Alaska Lands Act that would significantly weaken the protections for the federal lands originally agreed to by Congress when the bill was enacted.

DALE BUMPERS.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 967, as ordered, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Public Law 92–203

(43 U.S.C. 1601 et seq.)

§ 7. Regional Corporations

* * * * * * *

(i)(l) [Seventy per centum] *(A) Except as provided by subparagraph (B), seventy percent* of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this chapter shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 5. The provisions of this subsection shall not apply to the thirteenth Regional Corporation it organized pursuant to subsection (c) hereof.

(B) In the case of sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is entended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.

(2) For purposes of this subsection, the term "revenues" does not include any benefit received or realized for the use of losses incurred or credits earned by a Regional Corporation.

(j) During the five years following December 18, 1971, not less than 10% of all corporate funds received by each of the twelve Regional Corporations under section 6 (Alaska Native Fund), and under subsection (i) (revenues from the timber resources and subsurface estate patented to it pursuant to this chapter), and all other net income, shall be distributed among the stockholders of the twelve Regional Corporations. Not less than 45% of funds from such sources during the first five-year period, and 50% thereafter, shall be distributed among the Village Corporations in the region and the class of stockholders who are not residents of those villages, as provided in subsection to it. In the case of the thirteenth Regional Corporation, if organized, not less than 50% of all corporate funds received under section 6 shall be distributed to the

stockholders. *Native members of the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell who become shareholders in an Urban or Group Corporation for such a community shall continue to be eligible to receive distributions under this subsection as at-large shareholders of Sealaska Corporation.*

* * * * * * *

(r) No provision of Section 8 of the 1997 Act amending the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes, shall affect the ratio for determination of distribution of revenues among Native Corporations under this section of the Act and the 1982 Section 7(i) Settlement Agreement among the Regional Corporations or among Village Corporations under section 7(j) of the Act.

§ 8. Village Corporations

* * * * * * *

(c) The provisions of subsections (g), (h) (other than paragraph (4)), and (o) of section 5 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.

(d) ENROLLMENT IN THE ADDITIONAL CORPORATIONS IN SOUTHEAST ALASKA.—

(1) The Secretary shall enroll to each of the Urban Corporations for Haines, Ketchikan, Petersburg, or Wrangell those individual Natives who enrolled under this Act to Haines, Ketchikan, Petersburg, or Wrangell, and shall enroll to the Group Corporation for Tenakee those individual Natives who enrolled under this Act to Tenakee: Provided, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or section 14(h)(8) of this Act.

(2) Those Natives who, pursuant to paragraph (1), are enrolled to an Urban Corporation for Haines, Ketchikan, Petersburg, or Wrangell, or to a Group Corporation for Tenakee, and who were enrolled as shareholders of the Regional Corporation for southeast Alaska on or before March 30, 1973, shall receive 100 shares of Settlement Common Stock in such Urban or Group Corporation.

(3) A Native who has received shares of stock in the Regional Corporation for southeast Alaska through inheritance from a decedent Native who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, or Wrangell, which decedent Native was not a shareholder in a Village, Group or Urban Corporation, shall receive the identical number of shares of Settlement Common Stock in the Urban Corporation for Haines, Ketchikan, Petersburg, or Wrangell, or in the Group Corporation for Tenakee, as the number of shares inherited by that Native from the decedent Native who would have been eligible to be enrolled to such Urban or Group Corporation

* * * * * * *

§ 12. Native land selections

* * * * * * *

(c) The difference between thirty-eight million acres and the 22 million acres selected by Village Corporations pursuant to subsections (a) and (b) of this section shall be allocated among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) as follows:

* * * * * * *

(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this chapter, the Regional Corporations may select as follows:

* * * * * * *

(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)).

(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

(iii) For purposes of this subparagraph and subparagraph (C), the term 'Regional Corporation' shall refer only to Doyon, Limited.

[(C)**]** *(E)* Where the Regional Corporation elects to obtain such public lands under subparagraph **[**(A) or (B)**]** *(A), (B), or (C)* of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no small than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection (a)(1) of this section 14(h)(9) of this title, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

[(D)] *(F)* No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve-Alaska or within Wildlife Refuges as the boundaries of those refuges exist on December 18, 1971.

§ 16. Withdrawal and selection of public lands; funds in lieu of acreage

* * * * * * *

(e)(1) The Native residents of each of the Native villages of Haines, Kechikan, Petersburg, and Wrangell, Alaska, may organize as an Urban Corporation.

(2) The Native residents of the Native Village of Tenakee, Alaska, may organize as a Group Corporation.

(3) Nothing in this subsection shall affect any existing entitlement to land of any Native Corporation pursuant to this Act or any other provision of law.

§ 22. Miscellaneous Provisions

* * * * * * *

(c)(3) this section shall apply to lands conveyed by interim conveyance or patent to a [regional corporation] *Regional Corporation* pursuant to this chapter which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to November 2, 1995. Effective November 2, 1995, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 14(g), shall transfer to the [regional corporation] *Regional Corporation* administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 1744 of this title, except that any filings that would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made with the appropriate [regional corporation] *Regional Corporation.* The validity of any such mining claim or claims may be contested by the [regional corporation] *Regional Corporation,* in place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the [regional corporation] *Regional Corporation* shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after November 2, 1995 shall be remitted to the [regional corporation] *Regional Corporation* subject to distribution pursuant to section 7(i) of this Act, except that in the event that the mining claim or claims are not totally within the lands conveyed to the [regional corporation] *Regional Corporation.* the [regional corporation] *Regional Corporation* shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim so conveyed. *The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Cor-*

poration under this section shall not be subject to distribution pursuant to section 7(i) of this Act.

§ 29. Relation to other programs

* * * * * * *

(c) In determining the eleigiblity of a household, and indivual Native, or a descendant of a Native (as defined in section 3(r) of this title) to—

(1) participate in the Food Stamp Program,

(2) receive aid, assistance or benefits, based on need, under the Social Security Act, or

(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following received from a Native Corporation, shall be considered or taken into account as an asset or resource:

(A) cash (including cash dividends on stock received from a Native Corporation *and on bonds received from a Native Corpoartion*) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock) *or bonds issued by a Native Corporation which Bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution;*

(C) a partnership interest;

(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

(E) an interest in a settlement trust.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Public Law 96–487

§ 101. Congressional statement of purpose

* * * * * * *

(e) In order to comply with this Act all federal public land managers in Alaska, or a region that includes Alaska, shall participate in an ANILCA and ANCSA training class to be completed within 120 days after enactment. All future appointed federal public land managers in Alaska, or a region containing Alaska, are required to complete the aforementioned training within 60 days of appointment.

§ 202. Additions to existing areas

The following units of the National Park System are hereby expanded:

(1) Glacier Bay National Monument, by addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier

Bay National Preserve, both as generally depicted on map numbered GLBA–90,004, and dated October 1978; furthermore, the monument is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the following purposes, among others; To protect a segment of the Alsek River, fish and wildlife habitats and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather. Lands, waters, and interests therein within the boundary of the park and preserve which were within the boundary of any national forest are hereby excluded from such national forest and the boundary of such national forest is hereby revised accordingly. *Subsistence uses of fish by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of Title VIII.*

§ 905. Alaska Native allotments

* * * * * * *

(a)(7) Paragraph (1) of this subsection and section (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

(A) that is open and pending on the date of enactment of subsection (a)(7),

(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959, and

(C) if any protest which was filed by the State of Alaska pursuant to subsection (5)(b) with respect to the application is withdrawn or dismissed whether before or after the date of enactment of subsection (a)(7).

(D) any allotment application which is open and pending and which is legislatively approved by enactment of subsection (a)(7) shall, when allotted, be subject to any easement, trail or right-of-way in existence on the date of the Native allotment applicant's actual commencement of use and occupancy. The jurisdiction of the Department is hereby extended to make the factual determination required by this subsection.

§ 907. Alaska Land Bank

* * * * * * *

(d)(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust *or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law* shall be exempt, so long as such land and interest are not developed or leased or sold to third parties from—

* * * * * * *

(B) Except as otherwise provide specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after February 3, 1988.

(2) Definitions.—

* * * * * * *

(B) For purposes of this subsection—

(i) land shall not be considered developed solely as a result of—

(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; **[**and**]**

(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel**[**.**]***; and (iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.*

* * * * * * *

(3)(B) The prohibitions of subparagraph (A) shall not apply—

(i) when the actions of such trustee, receiver, or custodian are the purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; [or]

(ii) to any land, or interest in land, which has been—

(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement**[**.**]***; or*

(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.

§ 1105. Standards for granting certain authorizations

(a) In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agen-

cy concerned shall, within four months after the date of filing of any final Environmental Impact Statement, make recommendations, for purposes of section 1106(b) of this title, to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that—

(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system.

(b) Any alternative route that may be identified by the head of the Federal agency shall not be less economically feasible and prudent than the route for the system being sought by the applicant.

§ 1110. Special access and access to inholdings

(a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area the Secretary finds that such use would be detrimental to the resource values of the unit or [area] *area: Provided, That reasonable regulations shall not include any requirements for the demonstration of pre-existing use and Provided further, that the Secretary shall limit any prohibitions to be smallest area practicable, to the smallest period of time or both. No prohibition shall occur prior to formal consultation with the State of Alaska.* Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier successors in interest. Such rights *may include easements, right-of-way, or other interests in land or permits and* shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such [lands] *lands: Provided, That the Secretary shall not impose any unreasonable fees or*

charges on those seeking to secure their rights under this subsection. Individuals or entities possessing rights under this subsection shall not be subject to the requirement of sections 1104, 1105, 1106 and 1107 herein.

§ 1303. Use of cabins and other sites of occupancy on conservation system units

(a)(1) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each *Provided,* That the claimant of the structure by application:

* * * * * * *

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is [located] *located, Provided, That the applicant may not be required to waive, forfeit, or relinquish, its possessory or personalty interests in a cabin or structure.*

(2) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year *Provided, however,* That the claimant, by application:

* * * * * * *

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is [located] *located, Provided That the applicant may not be required to waive, forfeit, or relinquish its possessory or personalty interests in a cabin or structure.*

* * * * * * *

(b) The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

* * * * * * *

(3) No special use permit shall be issued under paragraphs (1) or (2) of this subsection unless the permit applicant:

* * * * * * *

(D) Acknowledges in the permit application that the applicant has no interest in a real property on which the cabin or structure is [located] *located, Provided, That the applicant may not be required to waive, forfeit, or relinquish its possessory or personalty interests in a cabin structure,* or will be constructed.

* * * * * * *

(e) All permits, permit renewals, or renewal or continuation of valid leases issued pursuant to this section shall provide for repair, maintenance, and replacement activities and may authorize alterations to cabins and similar structure that do not constitute a significant impairment of unit purposes.

§ 1307. Revenue-producing visitor services

* * * * * * *

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a) of this section, in selecting persons to provide (and in contracting for the provisions of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary—

(1) shall give preference to the [Native Corporation] *Native Corporations* which the Secretary determines [is most directly affected] *are most directly affected* by the establishment or expansion of such unit by or under the provisions of this Act;

* * * * * * *

§ 1315. Wilderness management

* * * * * * *

(g) Within National Forest Wilderness Areas and National Forest Monument areas as designated in this and subsequent Acts, the Secretary of Agriculture may permit or otherwise regulate helicopter use and landings, except that he shall allow for helicopter use and landings in emergency situations where human life or health are in danger.

§ 1316. Allowed uses

(a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and [equipment] *equipment, including motorized and mechanical equipment,* directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the [permittee.] *permittee: Provided structures and facilities may be allowed to stand from season to season.*

ALASKA LAND STATUS TECHNICAL CORRECTIONS ACT OF 1992

PUBLIC LAW 102–415

SEC. 20. GOLD CREEK SUSITNA ASSOCIATION, INCORPORATED ACCOUNT

* * * * * * *

(g) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.

(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to in-lieu subsurface estate are hereby provided to CIRI. Within 1 year from the date of enactment of this subsection, CIRI shall select 3,520 acres of land from the area designated for in-lieu selection by paragraph I.B.(2)(b) of the document identified in section 12(b) of the Act of January 2, 1976 (43 U.S.C. 1611 note).

○