

Calendar No. 68

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ 106-30

HUNA TOTEM CORPORATION PUBLIC INTEREST LAND EXCHANGE ACT

MARCH 22, 1999.—Ordered to be printed

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

REPORT

[To accompany S. 426]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 426) to amend the Alaska Native Claims Settlement Act, to provide for a land exchange between the Secretary of Agriculture and the Huna Totem Corporation, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 5, strike “Public Interest”.
2. On page 2, lines 10 and 11, strike “: Lands exchanged pursuant to this section shall be on the basis of equal value.” and insert in lieu thereof “. The values of the lands and interests therein exchanged pursuant to this section shall be equal.”.

PURPOSE OF THE MEASURE

The purpose of S. 426, as ordered reported, is to direct the Secretary of Agriculture to enter into an equal value exchange of lands and interests therein, in the Tongass National Forest with the Huna Totem Corporation and Sealaska Corporation.

BACKGROUND AND NEED

The city of Hoonah is located in southeast Alaska on the northeast part of Chichagoff Island. Hoonah has been the home of the Huna people since the last advance of the great ice masses into Glacier Bay, forcing the Huna people to look for new homes. Since the Huna people had traditionally used the Hoonah area each sum-

mer as a subsistence harvesting area, it was natural for them to settle in the area now called Hoonah. The community has a population of approximately 918 residents and is located forty miles from Juneau, Alaska's capital city.

Within the city of Hoonah is located the Huna Totem Corporation, an Alaska Native Corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA) (P.L. 92-203). Huna Totem is the largest Tlingit Indian Village Corporation in southeast Alaska. Under the terms of ANCSA each village corporation had to select lands within the core township or townships in which all or part of the Native village is located.

In 1975, Huna Totem filed its ANCSA land selections within the two-mile radius of the city of Hoonah as mandated by ANCSA. Since the community of Hoonah is located along the shoreline at the base of Hoonah Head Mountain, the surrounding lands are steep hillsides, cliffs, or are designated watershed for the municipal water sources. Most of the land, approximately 1,999 acres, is not conducive to logging or development due to the topography and watershed limitations.

To resolve this problem, S. 426 would require the Huna Totem Corporation to convey ownership of approximately 1,999 acres of land used for the municipal watershed to the U.S. Forest Service. In exchange, the Huna Totem Corporation will be allowed to select other lands readily accessible to Hoonah in order to fulfill their ANCSA entitlement. This legislation also requires the exchange of lands to be of equal value. Lastly, the legislation requires that any potential timber harvested from land acquired by Huna Totem Corporation not be available for report.

LEGISLATIVE HISTORY

S. 426 was introduced by Senator Murkowski on February 12, 1999. At the business meeting on March 4, 1999, the Committee on Energy and Natural Resources ordered S. 426, as amended, favorably reported. Except for minor technical changes made in S. 426, an identical bill was considered by the Full Committee during the 105th Congress. The Full Committee held a hearing on September 17, 1997; and the bill was favorably reported as amended on September 24, 1997. Senator Murkowski offered a floor amendment in the nature of a substitute and the bill passed the Senate, as amended, on June 25, 1998. No further action was taken in the House.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on March 4, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 426, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 426, the Committee adopted minor technical changes.

SECTION-BY-SECTION ANALYSIS

Section 1 states that the short title is the “Huna Totem Corporation Land Exchange Act”.

Section 2(a) directs the Secretary of Agriculture to convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate to certain lands as described in Subsection (c). This subsection also requires that the values of the exchanges be of equal value.

Subsection (b) contains a legal description of lands to be conveyed by the Huna Totem Corporation and Sealaska to the Secretary along with a reference to maps showing the municipal watershed.

Subsection (c) directs that, within 90 days after receipt by the United States of the conveyances owned by Huna Totem and Sealaska Corporation that Huna Totem shall be entitled to identify lands readily accessible to the Village of Hoonah, where possible on the road system in writing to the Secretary.

Subsection (d) requires that within 90 days after the list of identified lands is submitted by Huna the conveyance of lands by the Secretary shall occur.

Subsection (e) requires that any timber harvested from the lands conveyed to Huna Totem Corporation under this section not be available for the purpose of exporting that timber from the state of Alaska. This subsection also prohibits any party to which Huna Totem Corporation may sell, trade, exchange, substitute, or convey any of the timber from the lands it receives under this section from using the timber for the purpose of export.

Subsection (f) requires the land conveyed to Huna Totem Corporation and Sealaska Corporation to be for all purposes, considered land conveyed under ANCSA.

Subsection (g) directs that the maps referred to in this section be maintained on file in the Office of the Chief, Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. Should a discrepancy arise between cited acreage and lands on the maps, this section dictates that the maps control.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of the measures has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1999.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 426, the Huna Totem Corporation Public Interest Land Exchange Act.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 426—Huna Totem Corporation Public Interest Land Exchange Act

CBO estimates that this bill would not have a significant impact on the federal budget. Because the bill could affect offsetting receipts (a credit against direct spending), pay-as-you-go procedures would apply, but we estimate that any increase in direct spending would total less than \$500,000 a year. S. 426 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on the budget of state, local, or tribal governments.

S. 426 would direct the Secretary of Agriculture to convey the surface estate to certain federal lands in the Tongass National Forest to the Huna Totem Corporation, and also to convey the subsurface estate to such federal lands to the Sealaska Corporation. The federal land to be conveyed would be selected by the two corporations from federal lands depicted on the map described in the bill and dated September 1, 1997. The bill also provides that the Huna Totem Corporation and Sealaska convey to the United States approximately 2,000 acres of surface and subsurface estate.

S. 426 does not specify the federal land to be conveyed to the Huna Totem Corporation, but it provides that the exchange be on the basis of equal value. Because the federal budget is on a cash basis, the budgetary impact of the land exchange is measured by its effect on the government's cash flow, such as changes in offsetting receipts from timber harvests. CBO expects that enacting this bill could decrease offsetting receipts to the federal government. According to the Forest Service, the agency would generally consider the area acquired from the corporation to be unsuitable for future harvesting because it lies within the watershed and viewshed for the city of Hoonah. Some of the federal land that could be conveyed to the corporation under S. 426 currently does not generate federal timber receipts because it has been logged recently; however, a portion of the federal land that could be conveyed is not currently being harvested because it has been set aside as part of a conservation reserve under the Tongass National Forest management plan. According to the Forest Service, if the corporation harvested those areas following the exchange, then the agency would be obliged under the forest management plan to reserve for conservation another area of federal land within the Tongass National Forest that would otherwise be harvested under current law. We estimate that any resulting loss of timber receipts would be less than \$500,000 a year over the 2000–2009 period.

The CBO staff contact for this estimate is Victoria Heid Hall. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

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. 426. 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. 426, as ordered reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendation relating to S. 426 are set forth below:

DEPARTMENT OF AGRICULTURE,
Washington, DC, March 4, 1999.

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

DEAR FRANK: I write to express the Administration's strong opposition to S. 426, the Huna Totem Corporation Land Exchange Act, and S. 430, the Kake Tribal Corporation Land Exchange Act, which are scheduled for consideration by the Committee on Energy and Natural Resources today. The bills would direct the Secretary of Agriculture to enter into land exchanges with Huna Totem Corporation and Kake Tribal Corporation, which own surface estates, and Sealaska, which owns subsurface estates in southeast Alaska.

The Administration strongly opposed these two bills (S. 1158 and S. 1159) during the 105th Congress. Because both bills would set unacceptable precedents by reopening native entitlements under the Alaska Native Claims Settlement Act (ANCSA), the Secretary of the Interior and I would recommend that the President veto the bill.

ANCSA granted more than 200 village corporations the right to select public lands in Alaska for a variety of uses. Each corporation was required to select the public lands within the township in which it was located. ANCSA was a final settlement and, as such, represented many trade-offs and compromises by all parties.

If either S. 426 or S. 430 were enacted, all of Alaska's village corporations could argue that they too were entitled to exchange land selected under ANCSA for more desirable land. This precedent would threaten to unravel ANCSA's historic settlement through piece-meal amendments. In turn, Federal land management throughout Alaska would be severely disrupted with significant costs and consequences for all taxpayers.

Beyond the question of precedent, the land exchanges proposed by these two bills would not be in the public interest. The primary reason the U.S. Forest Service pursues land exchanges is to provide more efficient land management through consolidation of existing Federal ownership and to dispose of isolated parcels that are un-

economical to manage. S. 426 and S. 430 are in direct conflict with these goals.

Both bills are based on the premise that because some of the land the Kake Tribal Corporation and Huna Totem Corporation received within their townships under ANCSA is municipal watershed land not subject to development, the United States should provide the corporations with replacement land elsewhere. ANCSA, however, contemplated that villages would obtain all land within their "core" townships regardless of its development potential.

The Federal Government should not administer municipal watershed lands in Alaska, as would be required by S. 430. Rather, such lands should be managed by those communities which derive benefit from the land. Federal ownership of municipal watersheds is inconsistent with the ownership patterns envisioned by ANCSA, whereby native corporations had to select lands within their core townships.

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

Sincerely,

DAN GLICKMAN, *Secretary*.

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. 426, as ordered reported, 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 OF 1971

(43 U.S.C. 1601, et seq.), as amended

SECTION . HUNA TOTEM CORPORATION LAND EXCHANGE.

(a) *GENERAL.*—*In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Huna Totem Corporation pursuant to subsection (c). The values of the lands and interests therein exchanged pursuant to this section shall be equal.*

(b) *The surface estate to be conveyed by Huna Totem Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:*

MUNICIPAL WATERSHED AND GREENBELT BUFFER

T43S, R16E, C.R.M.

<i>Portion of Section</i>	<i>Approximate Acres</i>
16	2
21	610
22	227

T43S, R16E, C.R.M.—Continued

<i>Portion of Section</i>	<i>Approximate Acres</i>
23	35
26	447
27	400
33	202
34	76
<i>Approximate total</i>	1,999

(c) *Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Huna Totem Corporation shall be entitled to identify lands readily accessible to the Village of Hoonah and, where possible, located on the road system to the Village of Hoonah, as depicted on the map dated September 1, 1997, and labeled Attachment B. Huna Totem Corporation shall notify the Secretary of Agriculture in writing which lands Huna Totem Corporation has identified.*

(d) *TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted to Huna Totem Corporation pursuant to subsection (c).*

(e) *TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section shall not be for exported as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.*

(f) *RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.*

(g) *MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if there is any discrepancy between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.*