

107TH CONGRESS
2^D SESSION

H. R. 5452

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2002

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

A BILL

To resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cape Fox Land Enti-
5 tlement Adjustment Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Cape Fox Corporation (Cape Fox) is an
2 Alaska Native Village Corporation organized pursu-
3 ant to the Alaska Native Claims Settlement Act (43
4 U.S.C. 1601 et seq.) for the Native Village of
5 Saxman.

6 (2) As with other village corporations organized
7 pursuant to the Alaska Native Claims Settlement
8 Act in southeast Alaska, Cape Fox was limited to se-
9 lecting 23,040 acres under section 16 of the Alaska
10 Native Claims Settlement Act.

11 (3) Except for Cape Fox, all other village cor-
12 porations organized pursuant to the Alaska Native
13 Claims Settlement Act in southeast Alaska were re-
14 stricted from selecting land within two miles of a
15 home rule city.

16 (4) To protect the watersheds in the vicinity of
17 Ketchikan, Cape Fox was restricted from selecting
18 land within six miles of the boundary of the home
19 rule City of Ketchikan under section 22(l) of the
20 Alaska Native Claims Settlement Act (43 U.S.C.
21 1621(l)).

22 (5) The six mile restriction damaged Cape Fox
23 by precluding the corporation from selecting valuable
24 timber land, industrial sites, and other commercial
25 property, not only in its core township but in sur-

1 rounding land far removed from Ketchikan and its
2 watershed.

3 (6) As a result of the six mile restriction, only
4 the remote mountainous northeast corner of Cape
5 Fox's core township, which is nonproductive and of
6 no known economic value, was available for selection
7 by the corporation. Selection of this parcel was, how-
8 ever, mandated by section 16(b) of the Alaska Na-
9 tive Claims Settlement Act (43 U.S.C. 1615(b)).

10 (7) Cape Fox's land selections were further lim-
11 ited by the fact that the Annette Island Indian Res-
12 ervation is within its selection area, and those lands
13 were unavailable for selection under the Alaska Na-
14 tive Claims Settlement Act. Cape Fox is the only vil-
15 lage corporation organized pursuant to the Alaska
16 Native Claims Settlement Act affected by this re-
17 striction.

18 (8) Adjustment of Cape Fox's selections and
19 conveyances of land under the Alaska Native Claims
20 Settlement Act requires adjustment of Sealaska Cor-
21 poration's (Sealaska) selections and conveyances to
22 avoid creation of additional split estate between Na-
23 tional Forest System surface land and Sealaska sub-
24 surface land.

1 (9) There is an additional need to resolve exist-
2 ing areas of Sealaska/Tongass split estate, in which
3 Sealaska holds title or conveyance rights to several
4 thousand acres of subsurface land that encumber
5 management of Tongass National Forest surface
6 land.

7 (10) The Tongass National Forest land identi-
8 fied in this Act for selection by and conveyance to
9 Cape Fox and Sealaska, subject to valid existing
10 rights, provides a means to resolve some of the Cape
11 Fox and Sealaska Alaska Native Claims Settlement
12 Act land entitlement issues without significantly af-
13 fecting Tongass National Forest resources, uses, or
14 values.

15 (11) Adjustment of Cape Fox's selections and
16 conveyances of land under the Alaska Native Claims
17 Settlement Act through the provisions of this Act,
18 and the related adjustment of Sealaska's selections
19 and conveyances hereunder, are in accordance with
20 the purposes of the Alaska Native Claims Settlement
21 Act and otherwise in the public interest.

22 **SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR**
23 **CERTAIN LAND.**

24 Notwithstanding section 16(b) of the Alaska Native
25 Claims Settlement Act (43 U.S. C. 1615(b)), Cape Fox

1 shall not be required to select or receive conveyance of the
2 approximately 160 acres of Federal unconveyed land with-
3 in section 1, T. 75 S., R. 91 E., C.R.M.

4 **SEC. 4. SELECTION AND CONVEYANCE OUTSIDE EXTERIOR**
5 **SELECTION BOUNDARY.**

6 (a) SELECTION OF SURFACE ESTATE.—

7 (1) IN GENERAL.—In addition to land made
8 available for selection under the Alaska Native
9 Claims Settlement Act, not later than 2 years after
10 the date of the enactment of this Act, Cape Fox may
11 select the approximately 99 acres of the surface es-
12 tate of Tongass National Forest land outside Cape
13 Fox's current exterior selection boundary described
14 in paragraph (2).

15 (2) LAND DESCRIPTION.—The land referred to
16 in paragraph (a) is described as follows:

17 T. 73 S., R. 90 E., C.R.M.

18 Section 33: SW portion of SE 1/4: 38
19 acres.

20 Section 33: NW portion of SE 1/4: 13
21 acres.

22 Section 33: SE 1/4 of SE 1/4: 40 acres.

23 Section 33: SE 1/4 of SW 1/4: 8 acres.

24 (b) CONVEYANCE OF SUBSURFACE ESTATE.—Upon
25 conveyance to Cape Fox of the surface estate to the land

1 described in subsection (a)(2), the Secretary of the Inte-
2 rior shall convey to Sealaska the subsurface estate to that
3 land.

4 (c) TIMING.—The Secretary of the Interior shall com-
5 plete the conveyances to Cape Fox and Sealaska under
6 this section not later than 180 days after the Secretary
7 of the Interior receives written notice of the Cape Fox se-
8 lection under subsection (a).

9 **SEC. 5. EXCHANGE OF LAND BETWEEN CAPE FOX AND THE**
10 **TONGASS NATIONAL FOREST.**

11 (a) IN GENERAL.—The Secretary of Agriculture shall
12 offer, and if accepted by Cape Fox shall exchange, the
13 Federal land described in subsection (b) for land and in-
14 terests therein identified by Cape Fox under subsection
15 (c) and, to the extent necessary, land and interests therein
16 identified under subsection (d).

17 (b) LAND TO BE EXCHANGED TO CAPE FOX.—The
18 land to be offered to Cape Fox is Tongass National Forest
19 land comprising approximately 2,663.9 acres in T. 36 S.,
20 R. 62 E., C.R.M. and T. 35 S., R. 62 E., C.R.M., as des-
21 ignated upon a map entitled “Proposed Kensington
22 Project Land Exchange”, dated March 18, 2002, and
23 available for inspection in the Forest Service Region 10
24 regional office in Juneau, Alaska.

1 (c) LAND TO BE EXCHANGED TO THE UNITED
2 STATES.—

3 (1) IN GENERAL.—Not later than 60 days after
4 the date of the enactment of this Act, Cape Fox may
5 identify, in writing to the Secretary of Agriculture
6 and the Secretary of the Interior, the land and inter-
7 ests in land that Cape Fox proposes to exchange for
8 the Federal land described in subsection (b). The
9 land and interests in land shall be identified from
10 land previously conveyed to Cape Fox comprising
11 approximately 2,900 acres and designated as parcels
12 A-1 to A-3, B-1 to B-3, and C upon a map enti-
13 tled “Cape Fox Corporation ANCSA Land Ex-
14 change Proposal,” dated March 15, 2002, and avail-
15 able for inspection in the Forest Service Region 10
16 regional office in Juneau, Alaska.

17 (2) CONDITIONS FOR PARCELS.—Land identi-
18 fied for exchange within each parcel shall abut Na-
19 tional Forest System land and be in reasonably com-
20 pact tracts.

21 (3) EASEMENT.—The land identified for ex-
22 change shall include a public trail easement des-
23 ignated as “D” on the map described in paragraph
24 (1), unless the Secretary of Agriculture agrees other-
25 wise. The value of the easement shall be included in

1 determining the total value of land conveyed to the
2 United States.

3 (d) VALUATION OF EXCHANGE LAND.—The Sec-
4 retary of Agriculture shall determine whether the land
5 identified by Cape Fox under subsection (c) is equal in
6 value to the land described in subsection (b). If the land
7 identified under subsection (c) is determined to have insuf-
8 ficient value to equal the value of the land described in
9 subsection (b), Cape Fox and the Secretary shall mutually
10 identify additional Cape Fox land for exchange sufficient
11 to equalize the value of land conveyed to Cape Fox. Such
12 land shall be contiguous to adjacent National Forest Sys-
13 tem land and in reasonably compact tracts.

14 (e) CONDITIONS.—Notwithstanding section 14(f) of
15 the Alaska Native Claims Settlement Act, the offer and
16 conveyance of Federal land to Cape Fox in the exchange
17 shall be of the surface and subsurface estate. Such offer
18 and conveyance shall be subject to valid existing rights
19 and all provisions of section 14(g) of such Act.

20 (f) TIMING.—Not later than 90 days after the date
21 of the enactment of this Act, the Secretary of Agriculture
22 shall attempt to enter into an agreement with Cape Fox
23 to consummate the exchange consistent with this Act. The
24 land identified in the exchange agreement shall be ex-
25 changed by conveyance at the earliest possible date after

1 the exchange agreement is signed. Subject only to convey-
2 ance from Cape Fox to the United States of all its right,
3 title, and interest in the Cape Fox land included in the
4 exchange consistent with this Act, the Secretary of the In-
5 terior shall complete the interim conveyance to Cape Fox
6 of the Federal land included in the exchange not later than
7 180 days after the execution of the exchange agreement
8 by Cape Fox and the Secretary of Agriculture.

9 **SEC. 6. EXCHANGE OF LAND BETWEEN SEALASKA AND THE**
10 **TONGASS NATIONAL FOREST.**

11 (a) IN GENERAL.—Upon conveyance of the Cape Fox
12 land included in the exchange under section 5 and convey-
13 ance and relinquishment by Sealaska, in accordance with
14 this Act, of the land and interests in land described in
15 subsection (c), the Secretary of the Interior shall convey
16 to Sealaska the Federal land identified for exchange under
17 subsection (b).

18 (b) LAND TO BE EXCHANGED TO SEALASKA.—

19 (1) SELECTION AREA.—The land to be ex-
20 changed to Sealaska is to be selected by Sealaska
21 from Tongass National Forest land comprising ap-
22 proximately 9,329 acres in T. 36 S., R. 62 E.,
23 C.R.M., T. 35 S., R. 62 E., C.R.M., and T. 34 S.,
24 Range 62 E., C.R.M., as designated upon a map en-
25 titled “Proposed Sealaska Corporation Land Ex-

1 change Kensington Lands Selection Area”, dated
2 April, 2002 and available for inspection in the For-
3 est Service Region 10 Regional Office in Juneau,
4 Alaska.

5 (2) NOTICE OF LAND SELECTION.—Not later
6 than 60 days after receiving notice of the identifica-
7 tion by Cape Fox of the exchange land under section
8 5(c), Sealaska may identify, in writing to the Secre-
9 taries of Agriculture and the Interior, the land that
10 Sealaska selects to receive in exchange for the
11 Sealaska land described in subsection (c).

12 (3) CONDITIONS.—Land selected by Sealaska
13 shall be in no more than 2 contiguous and reason-
14 ably compact tracts that abut the land described for
15 exchange to Cape Fox in section 5(b). The exchange
16 conveyance to Sealaska shall be of the surface and
17 subsurface estate in the land selected and agreed to
18 by the Secretary but subject to valid existing rights
19 and all other provisions of section 14(g) of the Alas-
20 ka Native Claims Settlement Act.

21 (4) EQUAL VALUE.—The Secretary of Agri-
22 culture shall determine whether the selected land is
23 equal in value to the land described in subsection (c)
24 and may adjust the amount of selected land in order

1 to reach agreement with Sealaska regarding equal
2 value.

3 (c) LAND TO BE EXCHANGED TO THE UNITED
4 STATES.—The land and interests therein to be exchanged
5 by Sealaska is—

6 (1) the subsurface estate underlying the Cape
7 Fox exchange land described in section 5(c);

8 (2) an additional approximately 2,506 acres of
9 the subsurface estate underlying Tongass National
10 Forest surface estate, described in Interim Convey-
11 ance No. 1673; and

12 (3) rights to an additional approximately 2,698
13 acres of subsurface estate of Tongass National For-
14 est land remaining to be conveyed to Sealaska from
15 Group 1, 2, and 3 land as set forth in the Sealaska
16 Corporation/United States Forest Service Split Es-
17 tate Exchange Agreement of November 26, 1991, at
18 Schedule B, as modified on January 20, 1995.

19 (d) TIMING.—The Secretary of Agriculture shall at-
20 tempt, not later than 90 days after receipt of the selection
21 of land by Sealaska under subsection (b), to enter into
22 an agreement with Sealaska to consummate the exchange
23 consistent with this Act. The land identified in the ex-
24 change agreement shall be exchanged by conveyance at the
25 earliest possible date after the exchange agreement is exe-

1 cuted. Subject only to the Cape Fox and Sealaska convey-
2 ances and relinquishments described in subsection (a), the
3 Secretary of the Interior shall complete the interim con-
4 veyance to Sealaska of the Federal land selected for ex-
5 change not later than 180 days after execution of the
6 agreement by Sealaska and the Secretary of Agriculture.

7 (e) MODIFICATION OF AGREEMENT.—The executed
8 exchange agreement under this section shall be considered
9 a further modification of the Sealaska Corporation/United
10 States Forest Service Split Estate Exchange Agreement,
11 as ratified in section 17 of Public Law 102–415 (October
12 14, 1992).

13 **SEC. 7. MISCELLANEOUS PROVISIONS.**

14 (a) EQUAL VALUE REQUIREMENT.—The exchanges
15 described in this Act shall be of equal value. Cape Fox
16 and Sealaska shall have the opportunity to present to the
17 Secretary of Agriculture estimates of value of exchange
18 land with supporting information.

19 (b) TITLE.—Cape Fox and Sealaska shall convey and
20 provide evidence of title satisfactory to the Secretary of
21 Agriculture for their respective lands to be conveyed to
22 the United States under this Act, subject only to excep-
23 tions, reservations, and encumbrances in the interim con-
24 veyance or patent from the United States or otherwise ac-
25 ceptable to the Secretary of Agriculture.

1 (c) HAZARDOUS SUBSTANCES.—Cape Fox, Sealaska,
2 and the United States each shall not be subject to liability
3 for the presence of any hazardous substance in land or
4 interests in land solely as a result of any conveyance or
5 transfer of the land or interests therein under this Act.

6 (d) EFFECT ON ANCSA SELECTIONS.—Any convey-
7 ance of Federal surface or subsurface land to Cape Fox
8 or Sealaska under this Act shall be considered, for all pur-
9 poses, land conveyed pursuant to the Alaska Native
10 Claims Settlement Act. Nothing in this Act shall be con-
11 strued to change the total acreage of land entitlement of
12 Cape Fox or Sealaska under the Alaska Native Claims
13 Settlement Act. Cape Fox and Sealaska shall remain
14 charged for any land they exchange under this Act and
15 any land conveyed pursuant to section 4, but shall not be
16 charged for any land received under sections 5 or 6. The
17 exchanges described in this Act shall be considered, for
18 all purposes, actions which lead to the issuance of convey-
19 ances to Native Corporations pursuant to the Alaska Na-
20 tive Claims Settlement Act. Land or interests therein
21 transferred to the United States under this Act shall be-
22 come and be administered as part of the Tongass National
23 Forest.

24 (e) EFFECT ON STATEHOOD SELECTIONS.—Land
25 conveyed to or selected by the State of Alaska under the

1 Alaska Statehood Act (Public Law 85–508; 72 Stat. 339;
2 48 U.S.C. note prec. 21) shall not be eligible for selection
3 or conveyance under this Act without the consent of the
4 State of Alaska.

5 (f) MAPS.—The maps referred to in this Act shall
6 be maintained on file in the Forest Service Region 10 Re-
7 gional Office in Juneau, Alaska. The acreages cited in this
8 Act are approximate, and if there is any discrepancy be-
9 tween cited acreage and the land depicted on the specified
10 maps, the maps shall control. The maps do not constitute
11 an attempt by the United States to convey State or private
12 land.

13 (g) EASEMENTS.—Notwithstanding section 17(b) of
14 the Alaska Native Claims Settlement Act, Federal land
15 conveyed to Cape Fox or Sealaska pursuant to this Act
16 shall be subject only to the reservation of public easements
17 mutually agreed to and set forth in the exchange agree-
18 ments executed under this Act. The easements shall in-
19 clude easements necessary for access across the land con-
20 veyed under this Act for use of national forest or other
21 public land.

22 (h) OLD GROWTH RESERVES.—The Secretary of Ag-
23 riculture shall add an equal number of acres to old growth
24 reserves on the Tongass National Forest as are trans-
25 ferred out of Federal ownership as a result of this Act.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATION.**

2 (a) DEPARTMENT OF AGRICULTURE.—There are au-
3 thorized to be appropriated to the Secretary of Agriculture
4 such sums as may be necessary for—

5 (1) value estimation and related costs of ex-
6 changing land specified in this Act; and

7 (2) road rehabilitation and habitat and timber
8 stand improvement (including thinning and pruning)
9 on land acquired by the United States under this
10 Act.

11 (b) DEPARTMENT OF THE INTERIOR.—There are au-
12 thorized to be appropriated to the Secretary of the Interior
13 such sums as may be necessary for land surveys and con-
14 veyances pursuant to this Act.

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