

107TH CONGRESS
2D SESSION

S. 2222

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 SENATE OF THE UNITED STATES

APRIL 23, 2002

Mr. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural 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. FINDINGS.**

4 Congress finds and declares that:

5 (1) Cape Fox Corporation (Cape Fox) is an
6 Alaska Native Village Corporation organized pursu-
7 ant to the Alaska Native Claims Settlement Act, as

1 amended, (ANCSA) (43 U.S.C. 1601, et seq.) for
2 the Native Village of Saxman.

3 (2) As with other ANCSA village corporations
4 in Southeast Alaska, Cape Fox was limited to select-
5 ing 23,040 acres under section 16 of ANCSA.

6 (3) Except for Cape Fox, all other Southeast
7 Alaska ANCSA village corporations were restricted
8 from selecting within two miles of a home rule city.

9 (4) To protect the watersheds in the vicinity of
10 Ketchikan, Cape Fox was restricted from selecting
11 lands within six miles from the boundary of the
12 home rule City of Ketchikan under section 22(l) of
13 ANCSA.

14 (5) The six mile restriction damaged Cape Fox
15 by precluding the corporation from selecting valuable
16 timber lands, industrial sites, and other commercial
17 property, not only in its core township but in sur-
18 rounding lands far removed from Ketchikan and its
19 watershed.

20 (6) As a result of the six mile restriction, only
21 the remote mountainous northeast corner of Cape
22 Fox's core township, which is nonproductive and of
23 no economic value, was available for selection by the
24 corporation. Selection of this parcel was, however,
25 mandated by section 16(b) of ANCSA.

1 (7) Cape Fox's land selections were further lim-
2 ited by the fact that the Annette Island Indian Res-
3 ervation is within its selection area, and those lands
4 were unavailable for ANCSA selection. Cape Fox is
5 the only ANCSA village corporation affected by this
6 restriction.

7 (8) Adjustment of Cape Fox's selections and
8 conveyances of land under ANCSA requires adjust-
9 ment of Sealaska Corporation's (Sealaska) selections
10 and conveyances to avoid creation of split estate be-
11 tween national forest surface and Sealaska sub-
12 surface lands.

13 (9) There is an additional need to resolve exist-
14 ing areas of Sealaska/Tongass National Forest split
15 estate.

16 (10) The Tongass National Forest lands identi-
17 fied in this Act for selection by and conveyance to
18 Cape Fox and Sealaska, subject to valid existing
19 rights, provide a means to resolve certain Cape Fox
20 and Sealaska ANCSA land entitlement issues with-
21 out significantly affecting Tongass National Forest
22 resources, uses or values.

23 (11) Adjustment of Cape Fox's selections and
24 conveyances of land under ANCSA through the pro-
25 visions of this Act, and the related adjustment of

1 Sealaska’s selections and conveyances hereunder, are
2 in accordance with the purposes of ANCSA and oth-
3 erwise in the public interest.

4 **SEC. 2. SHORT TITLE.**

5 This Act may be cited as the “Cape Fox Land Enti-
6 tlement Adjustment Act of 2002”.

7 **SEC. 3. WAIVER OF CORE TOWNSHIP REQUIREMENT FOR**
8 **CERTAIN NON-PRODUCTIVE LANDS.**

9 Notwithstanding the provisions of section 16(b) of
10 ANCSA, Cape Fox Corporation (Cape Fox) shall not be
11 required to select or receive conveyance of approximately
12 160 nonproductive acres, more particularly described as
13 within the following described lands:

14 T. 75 S., R. 91 E., C.R.M., section 1.

15 **SEC. 4. SELECTION OUTSIDE EXTERIOR SELECTION**
16 **BOUNDARY.**

17 (a) In addition to lands made available for selection
18 under ANCSA and notwithstanding any other provision
19 of law, within 24 months after the date of enactment of
20 this Act, Cape Fox may select, and, upon receiving written
21 notice of such selection, the Secretary of the Interior shall
22 convey approximately 99 acres of the surface estate of
23 Tongass National Forest lands outside Cape Fox’s current
24 exterior selection boundary, specifically that parcel de-
25 scribed as follows:

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

2 Section 33: SW portion of SE¹/₄: 38 acres.

3 Section 33: NW portion of SE¹/₄: 13 acres.

4 Section 33: SE¹/₄ of SE¹/₄: 40 acres.

5 Section 33: SE¹/₄ of SW¹/₄: 8 acres.

6 (b) Upon conveyance to Cape Fox of the surface es-
 7 tate to the lands identified in subsection (a), the Secretary
 8 of the Interior shall convey to Sealaska Corporation
 9 (Sealaska) the subsurface estate to said lands.

10 (c) The Secretary of the Interior shall complete the
 11 interim conveyances to Cape Fox and Sealaska under this
 12 section within 180 days after the Secretary of the Interior
 13 receives notice of the Cape Fox selection under subsection
 14 (a).

15 **SEC. 5. EXCHANGE OF LANDS BETWEEN CAPE FOX AND**
 16 **THE TONGASS NATIONAL FOREST.**

17 (a) The Secretary of Agriculture shall offer, and if
 18 accepted by Cape Fox, shall exchange the Federal lands
 19 described in subsection (b) for lands and interests therein
 20 identified by Cape Fox under subsection (c).

21 (b) The lands to be offered for exchange by the Sec-
 22 retary of Agriculture are Tongass National Forest lands
 23 comprising approximately 2,663.9 acres in T. 36 S., R.
 24 62 E., C.R.M. and T. 35 S., R. 62 E., C.R.M., as des-
 25 ignated upon a map entitled "Proposed Kensington

1 Project Land Exchange”, dated March 18, 2002, and
 2 available for inspection in the Forest Service Region 10
 3 regional office in Juneau, Alaska. The Secretary of Agri-
 4 culture shall exclude from the lands offered all land from
 5 the mean high tide mark to a point five hundred feet in-
 6 land of all marine shorelands in and adjacent to the waters
 7 of Berners Bay; Provided, said exclusion shall not include
 8 any lands in the Slate Creek Cove area within T. 36 S.,
 9 R 62 E., C.R.M., section 1, W¹/₂ W¹/₂ or section 2, E¹/₂
 10 E¹/₂.

11 (c) Cape Fox shall be entitled, within 60 days after
 12 the date of enactment of this Act, to identify for exchange
 13 lands that the Secretary of Agriculture agrees are equal
 14 in value to the Federal exchange lands described in sub-
 15 section (b). The lands shall be identified from lands pre-
 16 viously conveyed to Cape Fox comprising approximately
 17 3,000 acres and designated as parcels A-1 to A-3, B-
 18 1 to B-3, and C upon a map entitled “Cape Fox Corpora-
 19 tion ANCSA Lands Exchange Proposal”, dated March 15,
 20 2002, and available for inspection in the Forest Service
 21 Region 10 regional office in Juneau, Alaska. Lands identi-
 22 fied for exchange within each parcel shall be contiguous
 23 to adjacent national forest lands and in reasonably com-
 24 pact tracts. Cape Fox shall notify the Secretaries of Agri-
 25 culture and the Interior and Sealaska in writing which

1 lands and interests therein Cape Fox has identified for
2 exchange. The lands identified for exchange shall include
3 a public trail easement designated as D on said map, un-
4 less the Secretary of Agriculture agrees otherwise.

5 (d) The offer and conveyance of Federal lands to
6 Cape Fox in the exchange shall, notwithstanding section
7 14(f) of ANCSA, be of the surface and subsurface estate,
8 but subject to valid existing rights and all other provisions
9 of section 14(g) of ANCSA.

10 (e) The Secretary of Agriculture shall attempt, within
11 90 days after the date of enactment of this Act, to enter
12 into an agreement with Cape Fox to consummate the ex-
13 change. The lands identified in the exchange agreement
14 shall be exchanged by conveyance at the earliest possible
15 date after the exchange agreement is signed. Subject only
16 to Cape Fox agreement and conveyance to the United
17 States of all its right, title and interest in the Cape Fox
18 lands included in the exchange, the Secretary of Agri-
19 culture shall complete the exchange. Subject only to said
20 agreement and conveyance, the Secretary of the Interior
21 shall complete the interim conveyance to Cape Fox of the
22 Federal lands included in the exchange within 180 days
23 after the date of enactment of this Act.

1 **SEC. 6. EXCHANGE OF LANDS BETWEEN SEALASKA AND**
2 **THE TONGASS NATIONAL FOREST.**

3 (a) Upon conveyance by Cape Fox of all its right,
4 title and interest in the Cape Fox lands included in the
5 exchange under section 5 and conveyance and relinquish-
6 ment by Sealaska Corporation of all its right, title and
7 interest in the lands described in subsection (c), the Sec-
8 retary of the Interior shall convey to Sealaska the Federal
9 lands identified for exchange under subsection (b). Subject
10 only to said Cape Fox and Sealaska conveyances and relin-
11 quishment, the Secretary of the Interior shall complete the
12 interim conveyance to Sealaska of the Federal lands iden-
13 tified for exchange within 180 days after the date of enact-
14 ment of this Act.

15 (b) The lands to be exchanged to Sealaska are to be
16 selected by Sealaska from Tongass National Forest lands
17 comprising approximately 9,329 acres in T. 36 S., R. 62
18 E., C.R.M., T. 35 S., R. 62 E., C.R.M., and T. 34 S.,
19 Range 62 E., C.R.M., as designated upon a map entitled
20 “Proposed Sealaska Corporation Land Exchange Ken-
21 sington Lands Selection Area,” dated April, 2002, and
22 available for inspection in the Forest Service Region 10
23 regional office in Juneau, Alaska. Sealaska shall be enti-
24 tled, within 60 days after receiving notice of the identifica-
25 tion of Cape Fox exchange lands under section 5(c), to
26 identify for exchange to Sealaska lands that the Secretary

1 of Agriculture agrees are equal in value to the Sealaska
2 exchange lands described in subsection (c). Lands identi-
3 fied for exchange to Sealaska shall be in no more than
4 two contiguous and reasonably compact tracts that adjoin
5 the lands described for exchange to Cape Fox in section
6 5(b). Sealaska shall notify Cape Fox and the Secretaries
7 of Agriculture and the Interior in writing which lands
8 Sealaska has identified for exchange. The exchange con-
9 veyance to Sealaska shall be of the surface and subsurface
10 estate in the lands identified, but subject to valid existing
11 rights and all other provisions of section 14(g) of ANCSA.

12 (c) The lands and interests therein to be exchanged
13 by Sealaska are the subsurface estate underlying the Cape
14 Fox exchange lands described in section 5(c), an addi-
15 tional approximately 2,506 acres of the subsurface estate
16 underlying Tongass National Forest surface estate, de-
17 scribed in Interim Conveyance No. 1673, and rights to an
18 additional approximately 2,698 acres of subsurface estate
19 of Tongass National Forest lands remaining to be con-
20 veyed to Sealaska from Group 1, 2, and 3 lands set forth
21 in the Sealaska Corporation/United States Forest Service
22 Split Estate Exchange Agreement of November 26, 1991,
23 at Schedule B, as modified on January 20, 1995.

24 (d) The exchange under this section shall be consid-
25 ered a further modification of the Sealaska Corporation/

1 United States Forest Service Split Estate Exchange
2 Agreement, as ratified in section 17 of Public Law 102–
3 415 (October 14, 1992).

4 **SEC. 7. MISCELLANEOUS PROVISIONS.**

5 (a) For the exchanges described in this Act, estimates
6 of value for exchange purposes shall be completed from
7 available information, and detailed appraisals of the ex-
8 change lands or additional resource inventories shall not
9 be required.

10 (b) Any conveyance of federal surface or subsurface
11 lands to Cape Fox or Sealaska under this Act shall be
12 considered, for all purposes, land conveyed pursuant to
13 ANCSA in partial fulfillment of, respectively, the entitle-
14 ment of Cape Fox or Sealaska. The exchanges described
15 in this Act shall be considered, for all purposes, actions
16 which lead to the issuance of conveyances to Native Cor-
17 porations pursuant to ANCSA. Lands or interests therein
18 transferred to the United States under this Act shall be-
19 come and be administered as part of the Tongass National
20 Forest.

21 (c) Lands conveyed to or selected by the State of
22 Alaska under Public Law 85–508 (72 Stat. 339, 48
23 U.S.C. note prec. 21) shall not be eligible for selection or
24 conveyance under this Act without the consent of the State
25 of Alaska.

1 (d) The maps referred to in this Act shall be main-
2 tained on file in the Forest Service Region 10 regional
3 office in Juneau, Alaska. The acreage cited in this section
4 is approximate, and if there is any discrepancy between
5 cited acreage and the land depicted on the specified maps,
6 the maps shall control. The maps do not constitute an at-
7 tempt by the United States to convey State or private
8 land.

9 **SEC. 8. AUTHORIZATION OF APPROPRIATION.**

10 There is authorized to be appropriated to the Sec-
11 retary of the Department of Agriculture such sums as may
12 be necessary for any required surveys, value estimation
13 and related costs of exchanging lands specified in this Act,
14 and for habitat and timber stand improvement, including
15 thinning and pruning, on lands acquired by the Depart-
16 ment of Agriculture under this Act.

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