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SENATE

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RUSSIAN RIVER LAND ACT

SEPTEMBER 11, 2002.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 3048]

[Including cost-estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 3048) to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 3048 is to resolve the claims of Cook Inlet Region, Inc. to lands adjacent to the Russian River in the State of Alaska.

BACKGROUND AND NEED

H.R. 3048 resolves a long-standing conflict of land selection rights and management of public activities at the junction of the Russian and Kenai Rivers in Alaska. The public lands at the junction of these rivers was withdrawn from disposal by the Forest Service pursuant to public land laws and set aside for a specific management purpose. This withdrawal created a conflict with a historic site selection filed by Cook Inlet Region Incorporated (“CIRI”) pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act (“ANCSA”).

The Forest Service, the Fish and Wildlife Service, and CIRI signed an agreement on July 26, 2001, to resolve the dispute. The Forest Service states that the agreement incorporates a solution that fulfills the goals of each party. The agreement includes the following components.

- The public campgrounds, parking lots, and most of the land in the vicinity of the confluence of the Kenai and Russian Rivers remain in Federal ownership.
- The right of the public to continue fishing remains unchanged.
- The Fish and Wildlife Service will convey to CIRI all archaeological and cultural resources from 502 acres of National Wildlife Refuge lands.
- The Forest Service will convey to CIRI 42 acres of land overlooking the confluence of the two rivers, and a second parcel of approximately 20 acres. The 20-acre parcel will be subject to ANCSA 14(h)(1) provisions, which require protection of cultural resources. In addition, a 50-foot public easement along the bank of the Kenai River will be reserved and administered by the Forest Service to allow continued public fishing on the parcel.
- CIRI will relinquish all ANCSA 14(h)(1) claims in the Sqilantnu Archeological District.
- The parties will pursue construction of a visitor's center.
- The agreement also authorizes, but does not require, an exchange of land in which CIRI would receive Kenai National Wildlife Refuge lands adjacent to the Sterling Highway or Funny River Road or both in return for the Fish and Wildlife Service receiving CIRI lands of equal value near the Killely River which are important brown bear habitat.

The Forest Service states that legislation is necessary to provide authority to convey the cultural resources on the Refuge, convey the two National Forest parcels, and to adjust the refuge and wilderness boundaries in the authorized exchange.

LEGISLATIVE HISTORY

H.R. 3048 passed the House of Representatives on July 22, 2002. The Subcommittee on Public Lands and Forests held a hearing on a companion bill, S. 1879, on June 18, 2002. At the business meeting on July 31, 2002, the Committee on Energy and Natural Resources ordered H.R. 3048 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 31, 2002, by a voice vote of a quorum present, recommends that the Senate pass H.R. 3048.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2 contains findings and purposes.

Section 3(a) ratifies the agreement executed by CIRI the Department of Agriculture, and the Department of the Interior on July 26, 2001. This subsection also states that in the event any of the terms of the agreement conflict with any other provision of law, the terms of the agreement shall control.

Subsection (b) states that the Secretaries of Agriculture and the Interior are authorized to take all actions required under the terms of the agreement.

Section 4 (a) authorizes \$13.8 million to be appropriated for the Forest Service to provide CIRI to pay costs for planning, designing,

and constructing a Joint Visitor's Interpretive Center and an archaeological research center.

Subsection (b) states that, of the amounts appropriated under this section, not more than one percent may be used to reimburse the Forest Service, the Fish and Wildlife Service and the Kenaitz Indian Tribe for the costs they incur in assisting CIRI in the planning and design of the Joint Visitor's Interpretive Center and The Sqilantnu Archaeological Research Center.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 5, 2002.

Hon. JEFF BINGAMAN,
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 H.R. 3048, the Russian River Land Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs), and Marjorie Miller (for the State and local impact).

Sincerely,

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

Enclosure.

H.R. 3048—Russian River Land Act

CBO estimates that implementing H.R. 3048 would cost \$13.8 million in 2003, assuming appropriation of the authorized amounts. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 3048 would ratify an agreement between the federal government and Cook Inlet Region, Inc., an Alaska Native regional corporation. Under that agreement, the federal government would convey to the corporation certain federal lands and interests located near the confluence of the Kenai and Russian rivers in Alaska. Specifically, the Forest Service would convey to the corporation about 62 acres of national forest land, and the U.S. Fish and Wildlife Service (USFWS) would convey the interest in archeological and cultural resources on 502 acres of national wildlife refuge lands. In exchange, the corporation would relinquish its claim to certain other federal lands in the region, which it has selected under the Alaska Native Claims Settlement Act.

According to the Forest Service and the USFWS, the lands and interests that would be conveyed to the corporation currently generate no receipts and are not expected to do so over the next 10 years; hence, CBO estimates that the proposed conveyances would not affect offsetting receipts. Under the agreement that would be ratified by H.R. 3048, the Forest Service and the USFWS would help the corporation to plan and design an interpretive center to be used by all three parties. The interpretive center would be built

on one of the parcels of land conveyed to the corporation. H.R. 3048 would authorize the appropriation of \$13.8 million for the Forest Service to make a payment to the corporation for the costs of constructing the proposed facility. CBO expects that the payment would be made during fiscal year 2003, assuming appropriation of the authorized amount.

H.R. 3048 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs that the corporation would incur as a result of the agreement ratified by this bill would be voluntary.

On June 28, 2002, CBO transmitted a cost estimate for H.R. 3048 as ordered reported by the House Committee on Resources on June 26, 2002. The two versions of the legislation are identical, and our cost estimates are the same.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, 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 H.R. 3048. 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 H.R. 3048, as ordered reported.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 3048. These reports had not been received at the time the report on H.R. 3048 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 Agriculture and the Fish and Wildlife Service at the Subcommittee hearing follows:

STATEMENT OF TOM THOMPSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, USDA FOREST SERVICE

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today. I am Tom Thompson, Deputy Chief for the National Forest System, USDA Forest Service. I am here today to provide the Department's view on S. 1879, to resolve claims of Cook Inlet Region, Inc. to land adjacent to Russian River.

S. 1879, if enacted, would resolve a long-standing conflict of land selection rights and management of public activities at the junction of the Russian and Kenai Rivers in

Alaska. The public lands at the junction of these rivers was withdrawn from disposal by the USDA Forest Service under public land laws and set aside for a specific management purpose. This withdrawal created a conflict with a historic site selection filed by Cook Inlet Region Incorporated (CIR) under Section 14(h)(1) of the Alaska Native Claims Settlement Act.

The USDA Forest Service, U.S. Fish and Wildlife Service worked together to address legal concerns and management objectives of all parties. On July 26, 2001, the three parties reached agreement (Russian Rivers Section 14(h)(1) Selection Agreement) on a solution that would fulfill the goals of each party. The Russian River Selection 14(h)(1) Selection Agreement provides consensus on the following points:

- The public campgrounds, parking lots, and most of the land in the vicinity of the confluence of the Kenai and Russian Rivers remain in federal ownership
- the right of the public to continue fishing remains unchanged from the current status.
- The Fish and Wildlife Service will convey to CIRI all archaeological and cultural resources from 502 acres of Refuge lands certified by the Bureau of Indian Affairs.
- The Forest Service will convey to CIRI fee title to a 42-acre parcel overlooking the confluence of the two rivers, and a second parcel of about 20 acres upstream of where the Sterling Highway crosses the Kenai River. The 20-acre parcel will be subject to Alaska Native Claims Settlement Act (ANCSA) 14(h)(1) provisions, which require protection of the cultural resources. In addition, a 50-foot public easement along the bank of the Kenai River will be reserved and administered by the Forest Service to allow continued public fishing on the parcel.
- With these conveyances, CIRI will relinquish all ANCSA 14(h)(1) claims in the Sqilantnu Archaeological District.
- The parties will pursue construction of a public visitor's interpretive center for the shared use of all three parties to be built on the 42-acre parcel to be conveyed to CIRI. The visitor's center would provide for the interpretation of both the natural and cultural resources of the Russian River area. Included in the subject bill is an appropriation for the construction of the proposed visitors center.
- In conjunction with the visitor's interpretive center, the parties will pursue the establishment of an archaeological research center and repository that will facilitate the management of cultural resources in the area.
- CIRI may develop certain visitor-oriented facilities on the 42-acre parcel. These facilities may include a lodge, staff housing, restaurant, etc., that would include space for agency personnel as well as CIRI staff.
- The parties will enter into a Memorandum of Understanding for the purpose of insuring the significant activi-

ties at Russian River are carried out in a cooperative and coordinated manner.

- The agreement also authorizes, but does not require, an exchange of land where CIRI would receive Kenai Refuge lands adjacent to the Sterling Highway and/or Funny River Road in return for FWS receiving CIRI lands of equal value near the Killey River that is important brown bear habitat. This would provide additional lands for CIRI development and economic benefit while protecting important habitat and migration routes for the Kenai brown bear.

The Department of Agriculture supports the enactment of S. 1879 if amended to address concerns with the waiver in Section 3(b) that could exempt activities under the Agreement from current law. Legislation is necessary to provide authority currently lacking to convey the cultural resources on the Refuge, convey the two small parcels within the Forest, and to adjust refuge and wilderness boundaries in the potential exchange. The bill would also ratify the Selection Agreement already agreed to by the three parties.

We appreciate efforts by Senator Murkowski to sponsor S. 1879.

For this measure as well as S. 2222, the Department supports authorization of exchanges through normal public review, including title review and disclosure of the fiscal and environmental effects of the exchanges, to ensure equal value and full awareness of the consequences of the exchanges.

CONCLUSION

USDA supports enactment of S. 1879 if amended to address concerns with Section 3(b).

This concludes my testimony. I would be happy to answer any questions that you may have.

STATEMENT OF DAVID ALLEN, REGIONAL DIRECTOR, U.S.
FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to testify today on S. 1879, a bill to resolve Native claims to lands adjacent to the Russian River, located on the Kenai National Wildlife Refuge and Chugach National Forest on Alaska's Kenai Peninsula. The Department of the Interior supports the enactment of S. 1879 if amended to address the Administration's concerns with Section 3(b). The bill settles all land claims in the vicinity of the confluence of the Russian and Kenai Rivers, allows continued public use of the area, and protects the area's vast historic and cultural resources.

BACKGROUND

Over time, the Cook Inlet Region, Inc. an Alaska Native Regional Corporation, selected nearly 2000 acres at the confluence of the Kenai and Russian Rivers, pursuant to Section 14(h)(1) of the Alaska Native Claims Settlement Act. CIRI valued these lands as existing cemetery sites and historical places.

Concern by the United States over the validity of the selections was complicated by the recreational use of the Russian River area by the public. Each year over 50,000 anglers fish the confluence area, primarily for sockeye salmon, and additionally for rainbow trout and silver salmon. The economic value to Kenai Peninsula alone is estimated at \$5.8 million annually, directly attributed to the Russian River fishery. It has been a high priority goal to preserve the public's access to these fertile fishing grounds.

The issues at Russian River between CIRI and the United States have been ongoing for nearly 20 years. Three years ago the parties decided that rather than engage in lengthy, expensive litigation, they would negotiate a settlement agreement that provided each party the interests it deemed necessary. The Russian River Section 14(h)(1) Selection Agreement was signed by the three principals in July 2001. The Agreement provides consensus on the following points:

- The public campgrounds, parking lots, and most of the land in the vicinity of the confluence of the Kenai and Russian Rivers remain in federal ownership and control.

Legislation is necessary to provide authority currently lacking to convey the cultural resources on the Refuge, convey the two small parcels within the Forest, and to adjust refuge and wilderness boundaries in the potential exchange. It would also ratify the Selection Agreement already agreed to by the three parties. The Administration is concerned with the waiver in section 3(b) that could exempt activities under the Agreement from current law. The Administration supports authorization of exchanges through normal public review, including title review and disclosure of the fiscal and environmental effects of the exchanges, to ensure equal value and full awareness of the consequences of the exchanges.

Finally, the bill includes an authorization of appropriation for \$13.8 million to the Department of Agriculture for the construction of the visitors interpretive center and archaeological research center.

SUMMARY AND CONCLUSIONS

S. 1879, if enacted, would resolve long standing issues of land ownership and land entitlement at one of the most popular public recreation locations in Alaska. It would provide for the conveyance of land and interests in land to Cook Inlet Region, Inc., an Alaska Native Regional Corporation for cultural preservation and economic benefit. It

would provide for continued public use of the most popular salmon fishing site in the State of Alaska, and continued federal management of the natural resources of the area. It would ratify the provisions of the Russian River Selection Agreement which provides mutual benefits for Alaska Natives, the general public and agencies of the United States. We would support passage of S. 1879 if amended to address Administration concerns with Section 3(b).

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or the other members may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 3048, as ordered reported.

