

Calendar No. 593

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION  
**S. 1889**

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## **A BILL**

To authorize the exchange of certain lands conveyed to the Kenai Natives Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes.

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SEPTEMBER 13, 1996

Reported with an amendment

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**IN THE SENATE OF THE UNITED STATES**

JUNE 19, 1996

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 13, 1996

Reported by Mr. MURKOWSKI, with an amendment

[Omit the part struck through and insert the part printed in *italie*]

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**A BILL**

To authorize the exchange of certain lands conveyed to the Kenai Natives Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Kenai Natives Associa-  
3 tion Equity Act Amendments of 1996”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) The United States Fish and Wildlife Service  
7 and Kenai Natives Association, Inc., have agreed to  
8 transfers of certain land rights, in and near the  
9 Kenai National Wildlife Refuge, negotiated as di-  
10 rected by Public Law 102–458.

11 (2) The lands to be acquired by the Service are  
12 within the area impacted by the Exxon Valdez oil  
13 spill of 1989, and these lands included important  
14 habitat for various species of fish and wildlife for  
15 which significant injury resulting from the spill has  
16 been documented through the EVOS Trustee Coun-  
17 cil restoration process. This analysis has indicated  
18 that these lands generally have value for the restora-  
19 tion of such injured natural resources as pink salm-  
20 on, dolly varden, bald eagles, river otters, and cul-  
21 tural and archaeological resources. This analysis has  
22 also indicated that these lands generally have high  
23 value for the restoration of injured species that rely  
24 on these natural resources, including wilderness  
25 quality, recreation, tourism, and subsistence.

1           (3) Restoration of the injured species will bene-  
2           fit from acquisition and the prevention of disturb-  
3           ances which may adversely affect their recovery.

4           (4) It is in the public interest to complete the  
5           conveyances provided for in this Act.

6           (b) PURPOSE.—The purpose of this Act is to author-  
7           ize and direct the Secretary, at the election of KNA, to  
8           complete the conveyances provided for in this Act.

9           **SEC. 3. DEFINITIONS.**

10          For purposes of this Act, the term—

11           (1) “ANCSA” means the Alaska Native Claims  
12           Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

13           (2) “ANILCA” means the Alaska National In-  
14           terest Lands Conservation Act (Public Law 96–487;  
15           94 Stat. 2371 et seq.);

16           (3) “conservation system unit” has the same  
17           meaning as in section 102(4) of ANILCA (16  
18           U.S.C. 3102(4));

19           (4) “CIRI” means the Cook Inlet Region, Inc.,  
20           a Native Regional Corporation incorporated in the  
21           State of Alaska pursuant to the terms of ANCSA;

22           (5) “EVOS” means the Exxon Valdez oil spill;

23           (6) “KNA” means the Kenai Natives Associa-  
24           tion, Inc., an urban corporation incorporated in the  
25           State of Alaska pursuant to the terms of ANCSA;

1           (7) “lands” means any lands, waters, or inter-  
2           ests therein;

3           (8) “Refuge” means the Kenai National Wild-  
4           life Refuge;

5           (9) “Secretary” means the Secretary of the In-  
6           terior;

7           (10) “Service” means the United States Fish  
8           and Wildlife Service; and

9           (11) “Terms and Conditions” means the Terms  
10          and Conditions for Land Consolidation and Manage-  
11          ment in the Cook Inlet Area, as clarified on August  
12          31, 1976, ratified by section 12 of Public Law 94-  
13          204 (43 U.S.C. 1611 note).

14 **SEC. 4. ACQUISITION OF LANDS.**

15          (a) OFFER TO KNA.—

16           (1) IN GENERAL.—Subject to the availability of  
17          the funds identified in subsection (b)(3), no later  
18          than 90 days after the date of enactment of this  
19          Act, the Secretary shall offer to convey to KNA the  
20          interests in land and rights set forth in subsection  
21          (b)(2), subject to valid existing rights, in return for  
22          the conveyance by KNA to the United States of the  
23          interests in land or relinquishment of ANCSA selec-  
24          tions set forth in subsection (b)(1). Payment for the  
25          lands conveyed to the United States by KNA is con-

1       tingent upon KNA's acceptance of the entire convey-  
2       ance outlined herein.

3           (2) LIMITATION.—The Secretary may not con-  
4       vey any lands or make payment to KNA under this  
5       section unless title to the lands to be conveyed by  
6       KNA under this Act has been found by the United  
7       States to be sufficient in accordance with the provi-  
8       sions of section 355 of the Revised Statutes (40  
9       U.S.C. 255).

10       (b) ACQUISITION LANDS.—

11           (1) LANDS TO BE CONVEYED TO THE UNITED  
12       STATES.—The lands to be conveyed by KNA to the  
13       United States, or the valid selection rights under  
14       ANCSA to be relinquished, all situated within the  
15       boundary of the Refuge, are the following:

16           (A) The conveyance of approximately 803  
17       acres located along and on islands within the  
18       Kenai River, known as the Stephanka Tract.

19           (B) The conveyance of approximately  
20       1,243 acres located along the Moose River,  
21       known as the Moose River Patented Lands  
22       Tract.

23           (C) The relinquishment of KNA's selection  
24       known as the Moose River Selected Tract, con-

1           taining approximately 753 acres located along  
2           the Moose River.

3           (D) The relinquishment of KNA's remain-  
4           ing ANCSA entitlement of approximately 454  
5           acres.

6           (E) The relinquishment of all KNA's re-  
7           maining overselections. Upon completion of all  
8           relinquishments outlined above, all KNA's enti-  
9           tlement shall be deemed to be extinguished and  
10          the completion of this acquisition will satisfy all  
11          of KNA's ANCSA entitlement.

12          (F) The conveyance of an access easement  
13          providing the United States and its assigns ac-  
14          cess across KNA's surface estate in the SW<sup>1</sup>/<sub>4</sub>  
15          of section 21, T. 6 N., R. 9 W., Seward Merid-  
16          ian, Alaska.

17          (G) The conveyance of approximately 100  
18          acres within the Beaver Creek Patented Tract,  
19          which is contiguous to lands being retained by  
20          the United States contiguous to the Beaver  
21          Creek Patented Tract, in exchange for 180  
22          acres of Service lands currently situated within  
23          the Beaver Creek Selected Tract.

1           (2) LANDS TO BE CONVEYED TO KNA.—The  
2 rights provided or lands to be conveyed by the  
3 United States to KNA, are the following:

4           (A) The surface and subsurface estate to  
5 approximately 5 acres, subject to reservations  
6 of easements for existing roads and utilities, lo-  
7 cated within the city of Kenai, Alaska, identi-  
8 fied as United States Survey 1435, withdrawn  
9 by Executive Order 2934, and known as the old  
10 Fish and Wildlife Service Headquarters site.

11           (B) The remaining subsurface estate held  
12 by the United States to approximately 13,811  
13 acres, including portions of the Beaver Creek  
14 Patented Tract, the Beaver Creek Selected  
15 Tract, and portions of the Swanson River Road  
16 West Tract and the Swanson River Road East  
17 Tract, where the surface was previously or will  
18 be conveyed to KNA pursuant to this Act. The  
19 conveyance of these subsurface interests will be  
20 subject to the rights of CIRI to the coal, oil,  
21 and gas, and to all rights CIRI, its successors,  
22 and assigns would have under paragraph 1(B)  
23 of the Terms and Conditions, including the  
24 right to sand and gravel, to construct facilities,



1 to have rights-of-way, and to otherwise develop  
2 its subsurface interests.

3 (C)(i) The nonexclusive right to use sand  
4 and gravel which is reasonably necessary for on-  
5 site development without compensation or per-  
6 mit on those portions of the Swanson River  
7 Road East Tract, comprising approximately  
8 1,738.04 acres; where the entire subsurface of  
9 the land is presently owned by the United  
10 States. The United States shall retain the own-  
11 ership of all other sand and gravel located with-  
12 in the subsurface and KNA shall not sell or dis-  
13 pose of such sand and gravel.

14 (ii) The right to excavate within the sub-  
15 surface estate as reasonably necessary for  
16 structures, utilities, transportation systems, and  
17 other development of the surface estate.

18 (D) The nonexclusive right to excavate  
19 within the subsurface estate as reasonably nec-  
20 essary for structures, utilities, transportation  
21 systems, and other development of the surface  
22 estate on the SW $\frac{1}{4}$ , section 21, T. 6 N., R. 9  
23 W., Seward Meridian, Alaska, where the entire  
24 subsurface of the land is owned by the United  
25 States and which public lands shall continue to

1           be withdrawn from mining following their re-  
2           removal from the Refuge boundary under sub-  
3           section (c)(1)(B). The United States shall re-  
4           tain the ownership of all other sand and gravel  
5           located within the subsurface of this parcel.

6           (E) The surface estate of approximately  
7           280 acres known as the Beaver Creek Selected  
8           Tract. This tract shall be conveyed to KNA in  
9           exchange for lands conveyed to the United  
10          States as described in subsection (b)(1)(B).

11          (3) PAYMENT.—The United States shall make  
12          a total cash payment to KNA for the above-de-  
13          scribed lands of \$4,443,000, contingent upon the ap-  
14          propriate approvals of the Federal or State of Alas-  
15          ka EVOS Trustees (or both) necessary for any ex-  
16          penditure of the EVOS settlement funds.

17          (4) NATIONAL REGISTER OF HISTORIC  
18          PLACES.—Upon completion of the acquisition au-  
19          thorized in subsection (a), the Secretary shall, at no  
20          cost to KNA, in coordination with KNA, promptly  
21          undertake to nominate the Stephanka Tract to the  
22          National Register of Historic Places, in recognition  
23          of the archaeological artifacts from the original  
24          Dena'ina Settlement. If the Department of the Inte-  
25          rior establishes a historical, cultural, or archaeologi-

1 cal interpretive site, KNA shall have the exclusive  
2 right to operate a Dena'ina interpretive site on the  
3 Stephanka Tract under the regulations and policies  
4 of the department. If KNA declines to operate such  
5 a site, the department may do so under its existing  
6 authorities. Prior to the department undertaking  
7 any archaeological activities whatsoever on the  
8 Stephanka Tract, KNA shall be consulted.

9 (c) GENERAL PROVISIONS.—

10 (1) REMOVAL OF KNA LANDS FROM THE NA-  
11 TIONAL WILDLIFE REFUGE SYSTEM.—

12 (A) Effective on the date of closing for the  
13 Acquisition Lands identified in subsection  
14 (b)(2), all lands retained by or conveyed to  
15 KNA pursuant to this Act, and the subsurface  
16 interests of CIRI underlying such lands shall be  
17 automatically removed from the National Wild-  
18 life Refuge System and shall neither be consid-  
19 ered as part of the Refuge nor subject to any  
20 laws pertaining solely to lands within the  
21 boundaries of the Refuge. The conveyance re-  
22 strictions imposed by section 22(g) of ANCSA  
23 (i) shall then be ineffective and cease to apply  
24 to such interests of KNA and CIRI, and (ii)  
25 shall not be applicable to the interests received

1 by KNA in accordance with subsection (b)(2) or  
2 to the CIRI interests underlying them. The Sec-  
3 retary shall adjust the boundaries of the Refuge  
4 so as to exclude all interests in lands retained  
5 or received in exchange by KNA in accordance  
6 with this Act, including both surface and sub-  
7 surface, and shall also exclude all interests cur-  
8 rently held by CIRI. On lands within the Swan-  
9 son River Road East Tract, the boundary ad-  
10 justment shall only include the surface estate  
11 where the subsurface estate is retained by the  
12 United States.

13 (B)(i) The Secretary, KNA, and CIRI  
14 shall execute an agreement within 45 days of  
15 the date of enactment of this Act which pre-  
16 serves CIRI's rights under paragraph 1(B)(1)  
17 of the Terms and Conditions, addresses CIRI's  
18 obligations under such paragraph, and ade-  
19 quately addresses management issues associated  
20 with the boundary adjustment set forth in this  
21 Act and with the differing interests in land re-  
22 sulting from enactment of this Act.

23 (ii) In the event that no agreement is exe-  
24 cuted as provided for in clause (i), solely for the  
25 purposes of administering CIRI's rights under

1 paragraph 1(B)(1) of the Terms and Condi-  
2 tions, the Secretary and CIRI shall be deemed  
3 to have retained their respective rights and obli-  
4 gations with respect to CIRI's subsurface inter-  
5 ests under the requirements of the Terms and  
6 Conditions in effect on June 18, 1996. Notwith-  
7 standing the boundary adjustments made pur-  
8 suant to this Act, conveyances to KNA shall be  
9 deemed to remain subject to the Secretary's  
10 and CIRI's rights and obligations under para-  
11 graph 1(B)(1) of the Terms and Conditions.

12 (C) The Secretary is authorized to acquire  
13 by purchase or exchange, on a willing seller  
14 basis only, any lands retained by or conveyed to  
15 KNA. In the event that any lands owned by  
16 KNA are subsequently acquired by the United  
17 States, they shall be automatically included in  
18 the Refuge System. The laws and regulations  
19 applicable to Refuge lands shall then apply to  
20 these lands and the Secretary shall then adjust  
21 the boundaries accordingly.

22 (D) Nothing in this Act is intended to en-  
23 large or diminish the authorities, rights, duties,  
24 obligations, or the property rights held by CIRI  
25 under the Terms and Conditions, or otherwise

1           except as set forth in this Act. In the event of  
2           the purchase by the United States of any lands  
3           from KNA in accordance with paragraph  
4           (1)(B), the United States shall reassume from  
5           KNA the rights it previously held under the  
6           Terms and Conditions and the provisions in any  
7           patent implementing section 22(g) of ANCSA  
8           will again apply.

9           (E) By virtue of implementation of this  
10          Act, CIRI is deemed entitled to 1,207 acres of  
11          in-lieu subsurface entitlement under section  
12          12(a)(1) of ANCSA. Such entitlement shall be  
13          fulfilled in accordance with paragraph  
14          1(B)(2)(A) of the Terms and Conditions.

15          (2) MAPS AND LEGAL DESCRIPTIONS.—Maps  
16          and a legal description of the lands described above  
17          shall be on file and available for public inspection in  
18          the appropriate offices of the United States Depart-  
19          ment of the Interior, and the Secretary shall, no  
20          later than 90 days after enactment of this Act, pre-  
21          pare a legal description of the lands described in  
22          subsection (b)(1)(G). Such maps and legal descrip-  
23          tion shall have the same force and effect as if in-  
24          cluded in the Act, except that the Secretary may  
25          correct clerical and typographical errors.

1           (3) ACCEPTANCE.—KNA may accept the offer  
2           made in this Act by notifying the Secretary in writ-  
3           ing of its decision within 180 days of receipt of the  
4           offer. In the event the offer is rejected, the Secretary  
5           shall notify the Committee on Resources of the  
6           House of Representatives and the Committee on En-  
7           ergy and Natural Resources and the Committee on  
8           Environment and Public Works of the Senate.

9           (4) FINAL MAPS.—Not later than 120 days  
10          after the conclusion of the acquisition authorized by  
11          subsection (a), the Secretary shall transmit a final  
12          report and maps accurately depicting the lands  
13          transferred and conveyed pursuant to this Act and  
14          the acreage and legal descriptions of such lands to  
15          the Committee on Resources of the House of Rep-  
16          resentatives and the Committee on Energy and Nat-  
17          ural Resources and the Committee on Environment  
18          and Public Works of the Senate.

19 **SEC. 5. ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.**

20          Upon acquisition of lands by the United States pur-  
21          suant to section 4(b)(1), that portion of the Stephanka  
22          Tract lying south and west of the Kenai River, consisting  
23          of approximately 592 acres, shall be included in and man-  
24          aged as part of the Kenai Wilderness and such lands shall

1 be managed in accordance with the applicable provisions  
2 of the Wilderness Act and ANILCA.

3 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**  
4 **MANAGEMENT AREA.**

5 (a) PURPOSE.—To balance the potential effects on  
6 fish, wildlife, and habitat of the removal of KNA lands  
7 from the Refuge System, the Secretary is hereby directed  
8 to withdraw, subject to valid existing rights, from location,  
9 entry, and patent under the mining laws and to create  
10 as a special management unit for the protection of fish,  
11 wildlife, and habitat, certain unappropriated and unre-  
12 served public lands, totaling approximately 37,000 acres  
13 adjacent to the west boundary of the Kanuti National  
14 Wildlife Refuge to be known as the “Lake Todatonten  
15 Special Management Area”, as depicted on the map enti-  
16 tled Proposed: Lake Todatonten Special Management  
17 Area, dated June 13, 1996, and to be managed by the  
18 Bureau of Land Management.

19 (b) MANAGEMENT.—

20 (1) Such designation is subject to all valid ex-  
21 isting rights as well as the subsistence preferences  
22 provided under title VIII of ANILCA. Any lands  
23 conveyed to the State of Alaska shall be removed  
24 from the Lake Todatonten Special Management  
25 Area.



1           (2) The Secretary may permit any additional  
 2 uses of the area, or grant easements, only to the ex-  
 3 tent that such use, including leasing under the min-  
 4 eral leasing laws, is determined to not detract from  
 5 nor materially interfere with the purposes for which  
 6 the Special Management Area is established.

7           (3)(A) The BLM shall establish the Lake  
 8 Totdatonten Special Management Area Committee.  
 9 The membership of the Committee shall consist of  
 10 11 members as follows:

11                   (i) Two residents each from the villages of  
 12                   Alatna, Allakaket, Hughes, and Tanana.

13                   (ii) One representative from each of Doyon  
 14                   Corporation, the Tanana Chiefs Conference,  
 15                   and the State of Alaska.

16           (B) Members of the Committee shall serve with-  
 17 out pay.

18           (C) The BLM shall hold meetings of the Lake  
 19 Totdatonten Special Management Area Committee at  
 20 least once per year to discuss management issues  
 21 within Special Management Area. The BLM shall  
 22 not allow any new type of activity in the Special  
 23 Management Area without first conferring with the  
 24 Committee in a timely manner.

25           (e) ACCESS.—The Secretary shall allow the following:

1           (1) Private access for any purpose, including  
2           economic development, to lands within the bound-  
3           aries of the Special Management Area which are  
4           owned by third parties or are held in trust by the  
5           Secretary for third parties pursuant to the Alaska  
6           Native Allotment Act (25 U.S.C. 336). Such rights  
7           may be subject to restrictions issued by the BLM to  
8           protect subsistence uses of the Special Management  
9           Area.

10           (2) Existing public access across the Special  
11           Management Area. Section 1110(a) of ANILCA  
12           shall apply to the Special Management Area.

13           (c) ~~SECRETARIAL ORDER AND MAPS.~~—The Secretary  
14           shall file with the Committee on Resources of the House  
15           of Representatives and the Committee on Energy and  
16           Natural Resources and the Committee on Environment  
17           and Public Works of the Senate, the Secretarial Order and  
18           maps setting forth the boundaries of the Area within 90  
19           days of the completion of the acquisition authorized by  
20           this Act. Once established, this Order may only be amend-  
21           ed or revoked by Act of Congress.

22           (d) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There  
23           are authorized to be appropriated such sums as may be  
24           necessary to carry out the purposes of this Act.

1 **SEC. 6. DESIGNATION OF LAKE TODATONTEN SPECIAL**  
2 **MANAGEMENT AREA.**

3 (a) *PURPOSE.*—To offset the removal of KNA lands  
4 from the Refuge System, the Secretary is hereby authorized  
5 to withdraw, subject to valid existing rights, and to create  
6 as a special management unit for uses other than wilder-  
7 ness, including the protection of fish, wildlife, and habitat,  
8 certain unappropriated and unreserved public lands, total-  
9 ing approximately 15,500 acres adjacent to the west bound-  
10 ary of the Kanuti National Wildlife Refuge to be known  
11 as the “Lake Todatonten Special Management Area”, from  
12 the 37,000 acres as depicted on the map entitled “Proposed:  
13 Lake Todatonten Special Management Area”, dated June  
14 13, 1996, and to be managed by the Bureau of Land Man-  
15 agement. Such withdrawal shall not include any validly se-  
16 lected land by the State of Alaska or Alaska Native Cor-  
17 poration or any lands that the Secretary determines has  
18 mineral potential based on surveys conducted or to be con-  
19 ducted by the United States Geological Survey. Such with-  
20 draws shall not occur, however, until the Secretary has  
21 complied with the requirements of subparagraphs (1)  
22 through (12) of paragraph 204(c)(2) of FLPMA. The Sec-  
23 retary may study the remaining lands within the area de-  
24 picted on the map for future potential withdrawal pursuant  
25 to section 204 of FLPMA.

26 (b) *MANAGEMENT.*—

1           (1) *Such designation is subject to all valid exist-*  
2 *ing rights including R.S. 2477 Rights-of-Way, as well*  
3 *as the subsistence preferences provided under title*  
4 *VIII of ANILCA.*

5           (2)(A) *The Bureau of Land Management shall*  
6 *establish the Lake Totatonten Special Management*  
7 *Area Committee. The membership of the Committee*  
8 *shall consist of 11 members as follows:*

9                   (i) *Two residents each from the villages of*  
10 *Alatna, Allakaket, Hughes, and Tanana.*

11                   (ii) *One representative from each of Doyon*  
12 *Corporation, the Tanana Chiefs Conference, and*  
13 *the State of Alaska.*

14           (B) *Members of the Committee shall serve with-*  
15 *out pay.*

16           (C) *The Bureau of Land Management shall*  
17 *hold meetings of the Lake Totatonten Special*  
18 *Management Area Committee at least once per*  
19 *year to discuss management issues within the*  
20 *Special Management Area. The Bureau of Land*  
21 *Management shall not allow any new type of ac-*  
22 *tivity in the Special Management Area without*  
23 *first conferring with the Committee in a timely*  
24 *manner.*

25           (c) *ACCESS.—The Secretary shall allow the following:*

1           (1) *Private access for any purpose, including*  
2           *economic development, to lands within the boundaries*  
3           *of the Special Management Area which are owned by*  
4           *third parties or are held in trust by the Secretary for*  
5           *third parties pursuant to the Alaska Native Allotment*  
6           *Act (25 U.S.C. 336). Such rights may be subject to*  
7           *restrictions issued by the Bureau of Land Manage-*  
8           *ment to protect subsistence uses of Special Manage-*  
9           *ment Area.*

10           (2) *Section 1110 of ANILCA shall apply to the*  
11           *Special Management Area.*

12           (d) *SECRETARIAL ORDER AND MAPS.—The Secretary*  
13           *shall file with the Committee on Resources of the House of*  
14           *Representatives and the Committee on Energy and Natural*  
15           *Resources, the Secretarial Order and maps setting forth the*  
16           *boundaries of the Area within 90 days of the completion*  
17           *of the acquisition authorized by this Act. Once established,*  
18           *this Order may only be amended or revoked by Act of Con-*  
19           *gress.*

20           (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
21           *authorized to be appropriated such sums as may be nec-*  
22           *essary to carry out the purposes of this Act.*