

108TH CONGRESS
1ST SESSION

S. 924

To authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2003

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, 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 that:

5 (1) The continued existence of the village of
6 Newtok, Alaska is threatened by the eroding banks
7 of the Ninglick River.

8 (2) A relocation of the village will become nec-
9 essary for the health and safety of the residents of
10 Newtok within the next 8 years.

1 (3) Lands previously conveyed to the Newtok
2 Native Corporation contain habitat of high value for
3 waterfowl.

4 (4) An opportunity exists for an exchange of
5 lands between the Newtok Native Corporation and
6 the Yukon Delta National Wildlife Refuge that
7 would address the relocation needs of the village
8 while enhancing the quality of waterfowl habitat
9 within the boundaries of the Refuge.

10 (5) An exchange of lands between Newtok and
11 the United States on an other than equal value basis
12 pursuant to the terms of this Act is in the public in-
13 terest.

14 **SEC. 2. DEFINITIONS.**

15 For the purposes of this Act, the term—

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

18 (2) “ANILCA” means the Alaska National In-
19 terest Lands Conservation Act of 1980 (16 U.S.C.
20 410hh–3233, 43 U.S.C. 1602 et seq.);

21 (3) “Calista” means the Calista Corporation, an
22 Alaska Native Regional Corporation established pur-
23 suant to ANCSA;

24 (4) “Identified Lands” means approximately
25 10,943 acres of lands (including surface and sub-

1 surface) designated as “Proposed Village Site” upon
2 a map entitled “Proposed Newtok Exchange,” dated
3 September, 2002, and available for inspection in the
4 Anchorage office of the United States Fish and
5 Wildlife Service;

6 (5) “limited warranty deed” means a warranty
7 deed which is, with respect to its warranties, limited
8 to that portion of the chain of title from the moment
9 of conveyance from the United States to Newtok to
10 and including the moment at which such title is val-
11 idly reconveyed to the United States of America and
12 its assigns;

13 (6) “Newtok” means the Newtok Native Cor-
14 poration, an Alaska Native Village Corporation es-
15 tablished pursuant to ANCSA;

16 (7) “Newtok lands” means approximately
17 12,101 acres of surface estate comprising conveyed
18 lands and selected lands identified as Aknerkochik
19 on the map referred to in paragraph (4) and that
20 surface estate selected by Newtok on Baird Inlet Is-
21 land as shown on said map; and

22 (8) “Secretary” means the Secretary of the In-
23 terior.

1 **SEC. 3. LANDS TO BE EXCHANGED.**

2 (a) LANDS EXCHANGED TO THE UNITED STATES.—

3 If, within 180 days after the date of enactment of this
4 Act, Newtok expresses to the Secretary in writing its in-
5 tent to enter into a land exchange with the United States,
6 the Secretary shall accept from Newtok a valid,
7 unencumbered conveyance, by limited warranty deed, of
8 the Newtok lands previously conveyed to Newtok. The Sec-
9 retary shall also accept from Newtok a relinquishment of
10 irrevocable prioritized selections for approximately 4,956
11 acres for those validly selected lands not yet conveyed to
12 Newtok. The reconveyance of lands by Newtok to the
13 United States and the prioritized, relinquished selections
14 shall be 1.1 times the number of acres conveyed to Newtok
15 under this Act. The number of acres reconveyed to the
16 United States and the prioritized, relinquished selections
17 shall be charged to the entitlement of Newtok.

18 (b) LANDS EXCHANGED TO NEWTOK.—In exchange
19 for the Newtok lands conveyed and selections relinquished
20 under subsection (a), the Secretary shall, subject to valid
21 existing rights and notwithstanding section 14(f) of
22 ANCSA, convey to Newtok the surface and subsurface es-
23 tate of the Identified Lands. The conveyance shall be by
24 interim conveyance. Subsequent to the interim conveyance,
25 the Secretary shall survey the Identified Lands at no cost
26 to Newtok and issue a patent to the Identified Lands sub-

1 ject to the provisions of ANCSA and this Act. At the time
 2 of survey the charge against Newtok's entitlement for
 3 acres conveyed or irrevocable priorities relinquished by
 4 Newtok may be adjusted to conform to the standard of
 5 1.1 acres relinquished by Newtok for each one acre re-
 6 ceived.

7 **SEC. 4. CONVEYANCE.**

8 (a) **TIMING.**—The Secretary shall issue interim con-
 9 veyances pursuant to subsection 3(b) at the earliest pos-
 10 sible time after acceptance of the Newtok conveyance and
 11 relinquishment of selections under subsection 3(a).

12 (b) **RELATIONSHIP TO ANCSA.**—Lands conveyed to
 13 Newtok under this Act shall be deemed to have been con-
 14 veyed under the provisions of ANCSA, except that the pro-
 15 visions of 14(c) of ANCSA shall not apply to these lands,
 16 and to the extent that section 22(g) of ANCSA would oth-
 17 erwise be applicable to these lands, the provisions of 22(g)
 18 of ANCSA shall also not apply to these lands. Consistent
 19 with section 103(c) of ANILCA, these lands shall not be
 20 deemed to be included as a portion of the Yukon National
 21 Wildlife Refuge and shall not be subject to regulations ap-
 22 plicable solely to public lands within this Conservation
 23 System Unit.

1 (c) EFFECT ON ENTITLEMENT.—Nothing in this Act
2 shall be construed to change the total acreage of land to
3 which Newtok is entitled under ANCSA.

4 (d) EFFECT ON NEWTOK LANDS.—The Newtok
5 Lands shall be included in the Yukon Delta National Wild-
6 life Refuge as of the date of acceptance of the conveyance
7 of those lands from Newtok, except that residents of the
8 Village of Newtok, Alaska, shall retain access rights to
9 subsistence resources on those public lands as guaranteed
10 under ANILCA section 811 (16 U.S.C. 3121), and to sub-
11 sistence uses, such as traditional subsistence fishing, hunt-
12 ing and gathering, consistent with ANILCA section 803
13 (16 U.S.C. 3113).

14 (e) ADJUSTMENT TO CALISTA CORPORATION ANCSA
15 ENTITLEMENT FOR RELINQUISHED NEWTOK SELEC-
16 TIONS.—To the extent that Calista subsurface rights are
17 affected by this Act, Calista shall be entitled to an equiva-
18 lent acreage of in-lieu subsurface entitlement for the
19 Newtok selections relinquished in the exchange as set
20 forth in subsection 3(a) of this Act. This additional entitle-
21 ment shall come from subsurface lands already selected
22 by Calista, but which have not been conveyed. If Calista
23 does not have sufficient subsurface selections to accommo-
24 date this additional entitlement, Calista Corporation is

1 hereby authorized to make an additional in lieu selection
2 for the deficient acreage.

3 (f) ADJUSTMENT TO EXCHANGE.—If requested by
4 Newtok, the Secretary is authorized to consider and make
5 adjustments to the original exchange to meet the purposes
6 of this Act, subject to all the same terms and conditions
7 of this Act.

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