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## HEARINGS

BEFORE THE

## COMMITTEE ON

## INTERIOR AND INSULAR AFFAIRS

## UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST SESSION

ON

### S. 1830

A BILL TO PROVIDE FOR THE SETTLEMENT OF CERTAIN LAND CLAIMS OF ALASKA NATIVES, AND FOR OTHER PURPOSES

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## ALASKA NATIVE LAND CLAIMS

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(Subsequent to the hearing the following communications and statements were received:)

STATE OF ALASKA,  
OFFICE OF THE GOVERNOR,  
Juneau, October 24, 1969.

Re Alaska Native Claims.

Hon. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,  
New Senate Office Building, Washington, D.C.*

DEAR SENATOR JACKSON: I understand that the Committee for Interior and Insular Affairs is soon to begin a markup of a bill on Alaska Native Land Claims. The matter is a subject of concern to all Alaskans, and I am sure you are well aware of this. There is not only the question of an overdue settlement with the Alaskan natives, but there is also the present problem of arrested economic development in Alaska because of the land freeze.

I hope that in the course of the markup sessions on the bill that representatives of my Administration will be able to discuss provisions of the bill with members of the Committee or with the staff of the Committee. I believe that it is important that interested parties to the settlement be able to contribute to the debate on the bill in some way. Please be advised that my administration is reconsidering its position on the claims. I believe that this is necessary in the light of recent developments. If there is not a fresh approach to the problem by the interested parties, it does not seem likely that Congress will approve a bill this session. This statement is made in light of the recent hearings of the House Committee in Alaska. The testimony at the hearings pointed out the significant differences of opinion among Alaskans on the claims. The question before Congress on the Claims is as important to Alaska as Statehood itself, and there should be agreement among Alaskans on the settlement.

The major areas of disagreement among Alaskans on the settlement relate to the land provisions and the monetary provision which involves a 2 percent overriding royalty on minerals in Alaska.

My administration is weighing the possibility of State selection of lands under the Statehood Act grant for disposition to the Alaska native villages. This would obviate the objection in Congress that the disposition of land in a settlement act would effectively remove a sizable portion of land from the public domain.

The aspect of monetary compensation is also under review by my administration. One possibility of resolution of this problem, of course, is recourse to the Indian Claims Commission or the Court of Claims for a resolution of this problem. The original position of Secretary of the Interior Udall in S. 1964, Sec. 4, which was introduced on June 15, 1967, by Senator Gruening, provided for Court of Claims jurisdiction. I am sure you are familiar with this procedure inasmuch as you authored the bill which set up the Indian Claims Commission. It is possible that the State Legislature may want to take action on revenue sharing which would allow Alaska natives to participate directly in State oil royalty benefits. More information on Legislative intent may develop next month.

It has been my consistent testimony on claims hearings that the State and not the Federal Government has the authority over State selected oil lands. The State Legislature may decide to allow the Alaska natives to share in the present oil royalty or in an additional oil royalty on future leases.

Please be assured of my commitment to an early and just settlement of Alaska Native Land Claims. It will allow Alaska to begin the task of the development in the state. I know that you were one of the strongest supporters in Alaska State-

hood, and I am confident that you will continue to exert your efforts for the fulfillment of that grant of Statehood.

Best personal regards.  
Sincerely yours,

KEITH H. MILLER, *Governor.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
Washington, D.C., October 24, 1969.

Hon. HENRY M. JACKSON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR JACKSON: In response to the request of the Committee, there is submitted herewith a brief on the question whether the Congress may, without the consent of the State of Alaska, enact legislation granting to Alaska Natives an overriding royalty interest in proceeds derived from the public lands in Alaska.

From a purely legal standpoint, we believe that Congress may grant the Natives a royalty interest in proceeds received under the Mineral Leasing Act, 41 Stat. 437 (1920), as amended, 30 U.S.C. sec. 181, *et seq.* (1964). However, as a matter of policy, this Department is strongly opposed to such a grant being made from the proceeds received under that act by the United States.

Sincerely yours,

MITCHELL MELICH, *Solicitor.*

[Enclosure]

#### SUMMARY

The Alaska Federation of Natives has taken the position that the Congress has reserved all rights and powers to settle Alaska Native claims in any manner which it deems advisable, including the power to grant such a royalty on all lands to which the United States has title, whether or not such lands have been selected by the State of Alaska. The State of Alaska argues on the other hand, that the grant of such a royalty would constitute a unilateral amendment of the Alaska Statehood Act, 72 Stat. 339 (1958), as amended, 48 U.S.C.A., note preceding sec. 21; that the Statehood Act is a compact between the State of Alaska and the United States which may not be amended or altered without the consent of both parties; and that the grant of a royalty interest would therefore be unconstitutional.

It is the position of the Department of the Interior that such a compact exists, but that it does not encompass the entire Statehood Act. While the Department is opposed to such a grant, a royalty interest in proceeds received under the Mineral Leasing Act, 41 Stat. 437 (1920), as amended, 30 U.S.C. sec. 181 *et seq.* (1964), may be granted to the Natives by Congress, since neither the Mineral Leasing Act nor any provision relating thereto is included within the compact. However, as to the lands granted to the State of Alaska under Section 6 of the Statehood Act, 72 Stat. 340 (1958), as amended 48 U.S.C.A., note preceding sec. 21, a compact does exist as to the terms and conditions of the grants, and the encumbrance created by a grant of an overriding royalty may not be imposed on these lands.

#### STATEMENT

In its opinion filed with the committee, September 8, 1969, the State of Alaska asserts that the grant of such a royalty would constitute an amendment to the Alaska Statehood Act, *supra*, and urges further that Congress may not so amend the Statehood Act since it constitutes a compact between the State and the Federal Government which may not be amended by either party without the consent of the other.

While it is true that there is a compact between the United States and the State of Alaska, only certain portions of the Alaska Statehood Act are included therein. The Supreme Court of Alaska, in *Melakatta Indian Community, Annette Island Reserve v. Egan*, 362 P. 2d 901 (1961), remanded on other grounds, 369 U.S. 45 (1962), took great pains to demonstrate that a compact was formed only as to those portions of the Statehood Act which corresponded to, and were responsive to, like provisions in the Alaska Constitution. The question there determined was whether or not a waiver as to interests in certain fishing rights

was a part of the compact. The waiver appeared in Article XII, Section 12 of the Alaska Constitution, did not appear in the Statehood Act as originally passed, but was included in the Statehood Act by amendment contained in the Alaska Omnibus Act, 73 Stat. 141 (1959), as amended, 48 U.S.C.A., note preceding sec. 21.

The Supreme Court of Alaska did not hold in *Metlakatla*, *supra*, that the Statehood Act could not be amended unilaterally, as suggested by the brief of the State of Alaska, but only that an amendment such as contained in the Omnibus Act, *supra*, did not constitute an amendment to the compact, which compact was formed by corresponding provisions of the Alaska Constitution and the Statehood Act. The Constitution was, in effect, an offer and the portions of the Statehood Act which corresponded thereto constituted an acceptance, thus forming the contract or compact. Since the waiver contained in the Constitution was not originally a part of the compact, the amendment to the Statehood Act could not have the effect of amending the compact to include the waiver. The Court stated, at 362 P. 2d 913:

"We are forced to conclude that no compact as to fishing rights was formed between the State of Alaska and the United States by the second sentence of section 12 of article XII of the Alaska constitution and the responsive portion of section 4 of the Alaska Statehood Act. This is because no fishing rights were defined, as required by the condition in the offer to disclaim, . . ."

The contractual conception of Federal-State compacts also appears in *Beecher v. Wetherby*, 95 U.S. 517 (1877) where the United States Supreme Court held that there was a compact as to the grant of certain sections of land for school purposes, since there had been an offer for such grants included in the Wisconsin Enabling Act, 9 Stat. 56 (1846), which was accepted by the inclusion of a corresponding provision in the Wisconsin Constitution. Thus, it was not the Wisconsin Statehood Act, 9 Stat. 233 (1848), standing alone which formed the compact, but the offer and acceptance embodied in the Enabling Act and the Wisconsin Constitution taken together.

The State of Alaska drafted its Constitution without the pre-existence of an Enabling Act, and therefore the provisions of the Constitution itself constituted the offer to contract. Any provision which appears in the Alaska Constitution, but which does not appear in some form in the Statehood Act, such as the waiver dealt with in the *Metlakatla* case, *supra*, must be held to be outside the compact. Likewise, any provision which appears only in the Statehood Act cannot be held to be included in the compact. This is not to say that provisions of the Statehood Act not appearing in the Constitution do not have the force of law. Such provisions are valid and binding until repealed, amended, or superseded in some fashion. Congress may amend those portions of the Statehood Act which are not included in the compact at any time without the consent of the people of the State of Alaska.

The Alaska Natives have proposed that they be granted, in part, a two percent royalty interest in the proceeds from leases granted under the Mineral Leasing Act, 41 Stat. 437 (1920), as amended, 30 U.S.C. sec. 181 *et seq.* (1964). The State of Alaska asserts that such a grant would have the effect of amending Section 28(b) of the Alaska Statehood Act, 72 Stat. 351 (1958), which amends the Mineral Leasing Act providing a certain percentage of mineral revenues be paid to Alaska. The State contends that Section 28(b), as a part of the Statehood Act, is included in the compact between the Federal Government and the State of Alaska, and therefore it cannot be amended by Congress without the consent of the people of Alaska. There is, however, no provision contained in the Alaska Constitution which corresponds to Section 28(b), nor one even remotely suggesting its terms. Thus, no offer and acceptance occurred with regard to that particular subject, and the contention that there exists any compact between the State of Alaska and the Federal Government as to revenues from mineral leasing, must fail. Section 28(b) of the Statehood Act simply is not included within the compact.

Furthermore, it is not Section 28(b) of the Statehood Act which grants a percentage of mineral revenues to the State of Alaska. The section is merely a perfecting clause which substitutes the word "State" for the word "Territory" in Section 35 of the Mineral Leasing Act, 41 Stat. 450 (1920), as amended, substantive grant of royalties. To hold that Section 28(b) contains a substantive grant of mineral revenue royalties which in turn is contained within a Federal-State compact would result in the requirement of approval by the State of Alaska of any future Mineral Leasing Act amendment proposed by

Congress. This cannot have been the intended result. Section 28(b) of the Statehood Act was not intended to be a substantive provision, does not operate as such, and furthermore does not come within the compact at all. Thus, Congress is free to deal with revenues under the Mineral Leasing Act in any manner which it deems advisable, whether or not such action would result in amendment of Section 28(b) of the Statehood Act.

The State of Alaska additionally relies on the fact that certain propositions regarding the Statehood Act were submitted to the people of Alaska for adoption, arguing that the Statehood Act in its entirety, including Section 28(b) discussed above, constituted an offer and its adoption or ratification by the people an acceptance, thereby creating a compact encompassing the entire Statehood Act. This argument must also fail, since only certain portions of the Statehood Act were presented to the people of the State of Alaska for ratification. Section 8(b) of the Statehood Act, 72 Stat. 343 (1958), sets forth the three following propositions which were presented to the people of Alaska for adoption or rejection:

"(1) Shall Alaska immediately be admitted into the Union as a State?

"(2) The boundaries of the State of Alaska shall be as prescribed in the Act of Congress approved [July 7, 1958] and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States.

"(3) All provisions of the Act of Congress approved [July 7, 1958] reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Alaska, are consented to fully by said State and its people."

The three propositions set forth above did not present the entire Statehood Act to the people for ratification, but only the boundary provisions and those certain other provisions which reserve rights or powers to the Federal Government and which set forth terms or conditions for grants of lands or other property, which grants were made in the Statehood Act. No provision of the Statehood Act which did not fall within these three categories was subject to ratification. Section 28(b), being not even a substantive provision but amending the Mineral Leasing Act only to the extent of substituting "State" for "Territory," cannot be held to fall within one of the three categories. Section 28(b) does not concern boundaries; it does not reserve rights or powers to the Federal Government; and it does not set forth terms or conditions of a grant made elsewhere in the Statehood Act. This section was not ratified by the people of the State of Alaska and, since a like provision does not appear in the Alaska Constitution, it is not a part of the compact.

The Alaska Natives additionally seek a two percent royalty interest in proceeds from lands selected or to be selected by the State of Alaska under Section 6 of the Statehood Act. Section 6 sets forth several grants of land and the terms of each grant. There is no provision contained in Section 6 which limits the quantum of title granted the State of Alaska in these lands, and thus the grants are in fee simple. See R.S. sec. 2449 (1875), as amended, 43 U.S.C. sec. 859 (1964), which provides that grants of lands to a State are to be in fee simple absolute unless otherwise stated in the grant. The Alaska Natives would have the two percent royalty imposed upon all lands title to which is currently in the Federal Government, which includes a great deal of the lands granted to the State under Section 6. The result of the royalty grant would be that, when patent to the lands selected by the State of Alaska does issue, such lands will be encumbered by the two percent royalty grant. Such a royalty grant would in fact constitute an amendment to Section 6 of the Statehood Act, which provides the terms and conditions of the grants, but which does not presently include an encumbrance imposed by an overriding royalty.

As previously noted, the State of Alaska views the entire Statehood Act as a Federal-State compact and urges that the terms and conditions of the grants made in Section 6 cannot be altered unilaterally by the Congress. But the entire Statehood Act is not embraced within the compact. The compact relates only to those portions of the Statehood Act for which there appeared a corresponding provision in the Alaska Constitution. While it is true that the provisions of Section 6 itself was not initially a part of the compact, the people of the State of Alaska did ratify "the terms or conditions of the grants of land or other property" contained within the Statehood Act by their acceptance of the third proposition cited above. By virtue of the fact that the terms and conditions of the grant offered by the United States were consented to by the people of the State of Alaska, they formed the subject matter of a contract and are thus a part of the compact. The compact so formed cannot be unilaterally amended by Con-

gress to grant a royalty to the Alaska Natives or any other third party in the lands granted to the State of Alaska under Section 6.<sup>1</sup>

Further, the grants of land contained in Section 6 were operative upon passage of the Statehood Act and its subsequent ratification; the terms and conditions of the grants were binding as of the effective date of the Act. *Beecher v. Wetherby*, 95 U.S. 517 (1877); *Coyle v. Oklahoma*, 221 U.S. 599 (1911); *Pollard's Lessee v. Hagan*, 3 How. 212 (1845). The only question remaining to be determined was which lands would pass to the State of Alaska by those grants.

In *Beecher v. Wetherby*, 95 U.S. 517 (1877), discussing school section lands granted to the State of Wisconsin, the U.S. Supreme Court stated, at 523-524 that:

"It was, therefore, an unalterable condition of the admission, obligatory upon the United States, that section sixteen (16) in every township of the public lands in the State, which had not been sold or otherwise disposed of, should be granted to the State for the use of schools. It matters not whether the words of the compact be considered as merely promissory on the part of the United States, and constituting only a pledge of a grant in future, or as operating to transfer the title to the State upon her acceptance of the propositions as soon as the sections could be afterwards identified by the public surveys. In either case, the lands which might be embraced within those sections were appropriated to the State. They were withdrawn from any other disposition, and set apart from the public domain, so that no subsequent law authorizing a sale of it could be construed to embrace them, although they were not specially excepted. All that afterwards remained for the United States to do with respect to them, and all that could be legally done under the compact, was to identify the sections by appropriate surveys; \* \* \*. They could not be diverted from their appropriation to the State.

"In *Cooper v. Roberts*, 18 How. 173, this court gave construction to a similar clause in the compact upon which the State of Michigan was admitted into the Union, and held, after full consideration that by it the State acquired such an interest in every section 16 that her title became perfect so soon as the section in any township was designated by the survey."

Congress thus cannot impair the title to lands granted to the State of Alaska by Section 6 by the imposition of the two percent royalty urged by the Alaska Natives.

---

WYMAN, BAUTZER, FINELL, ROTHMAN & KUCHEL,  
Washington, D.C., October 30, 1969.

HON. HENRY M. JACKSON,  
Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Solicitor Melich has made available a copy of the brief on the royalty question he submitted on October 23 for the Department of the Interior.

In view of the position taken in the Department's brief with respect to the authority of Congress to provide for a royalty for the benefit of the Natives with respect to lands selected or to be selected by the State of Alaska under Section 6 of the Alaska Statehood Act (Pub. L. 85-508, July 7, 1958, 72 Stat. 339, 48 U.S.C.A. (1968 pocket part), p. 5), we are impelled to comment.

As did we, the Department concludes that the Congress may, without the consent of the State of Alaska, enact legislation reserving for the Alaska Natives a royalty interest in proceeds derived from public lands in Alaska retained in Federal ownership.

The Interior Department brief, however, takes the position that for Congress to reserve a 2-percent royalty interest, as The Alaska Federation of Natives proposes, in respect of the disposition of mineral and surface resources by the State of Alaska from lands selected or to be selected by the State under Section 6 of the Statehood Act and for which no patents have issued as of January 1, 1969, would impair the title to lands granted to the State of Alaska by Section 6 of the Statehood Act. Hence, in the view of the Department, Congress is powerless to make such provision without the agreement of the State.

<sup>1</sup> It should be noted that the Alaska Statehood Act, 72 Stat. 339 (1958), has been amended, see 48 U.S.C.A., note preceding sec. 21. Such amendment, however, did not affect the compact unless requested or assented to by the State of Alaska.

Apparently the Department's conclusion springs from its failure to find *within the confines of Section 6 of the Statehood Act* a reservation by the Congress of authority to provide a royalty interest for the Natives in the case of lands granted to the State. Failing to find such a reference in Section 6, the Department concludes that were the Congress now to make such provision it would modify the terms and conditions of the land grants to the State by reducing the quantum of title granted the State in a manner not provided for in Section 6. In support of its contention that the terms and conditions of the land grants are fixed beyond change, the Department relies principally upon *Beecher v. Wetherby*, 95 U.S. (5 Otto) 517, 24 L. ed. 440 (1877).

The Department's brief neither mentions nor considers either Section 4 of the Statehood Act nor the limitation in Section 6 itself which restricts the State to the selection of lands "which are vacant, unappropriated, and unreserved at the time of their selection," and the first proviso therein specifying that nothing in the section shall affect, *inter alia*, any valid existing claim.

We suggest that the Department's brief fails to come to grips with the question at hand. Without here stopping to consider whether in any event the land grant provisions of the Statehood Act are a compact with the State of Alaska, the issue posed by the pending legislation does not involve the validity of any proposed change in the terms and conditions already covering the rights provided for in Section 6. Rather, the question presented goes to the nature of the terms and conditions the Congress has already laid down. The Department's brief is devoid of any consideration of what those terms and conditions may be.

The answer to the question of whether Congress has the authority to reserve a royalty interest for the Natives in lands selected or to be selected by the State of Alaska lies in a consideration of the powers Congress reserved in the Statehood Act with respect to lands claimed by the Natives. These powers are dealt with in Section 4, which also contains the State's disclaimer of any interest in such lands. They are also comprehended in the restriction of the State's selection rights to vacant, unappropriated, and unreserved lands and in the first proviso to Section 6 which excepts, *inter alia*, any valid existing claims.

*Beecher v. Wetherby*, upon which the Department places such heavy reliance, itself, illustrates that the critical issue is not the fact of the grant but rather its content. For in *Beecher*, under a Statehood Act that made no reference to Native claims and contained no disclaimer on the part of the State involved, the Supreme Court construed the grant to the State to comprehend only the shell, i.e., the naked legal title, until and unless the Native claims were extinguished. Absent such an extinguishment, *Beecher* teaches that the substance, i.e., the beneficial interest in the lands, remains with the Natives. The Department's reliance on *Beecher v. Wetherby* is clearly misplaced.

Manifestly, by the Statehood Act the Congress has not foreclosed the power of the United States to dispose of public lands in Alaska at least prior to selection. This is clear from the restriction by Section 6 of the State's selection right to those lands which are vacant, unappropriated or unreserved at the time of selection; it is clear also from the provision for a preferential right of selection in the State under certain circumstances. (Sec. 6(g)). Thus, we suppose that, upon reflection, the Department would agree that the United States may dispose of the fee or any lesser interest in at least unselected public lands in Alaska to the Natives as well as to anyone else without invading any rights of the State of Alaska. This authority obviously could include the selection of a royalty interest on behalf of the Natives.

Therefore, the only open issue relates to selected or selected and tentatively approved lands.

Our memorandum of September 10 examined in depth into the nature of the powers reserved by the Congress to deal with lands claimed by the Natives in legislation settling the Natives' claims. We do not repeat that analysis here. Suffice it to say that it is plain from an analysis of the Statehood Act as a whole that Congress has retained the authority to deal with public lands in Alaska in respect of Native claims in the same manner as though the Statehood Act were not on the books; that Congress did not intend that the Statehood land grants to Alaska should extinguish the Native claims to the lands granted or Congress authority to legislate with regard to Native rights in respect of each of such lands; and that it is settled law that claims of aboriginal title are not extinguished by grants of land to States or other parties unless a contrary intent is manifest. *Beecher v. Wetherby*, 95 U.S. (5 Otto) 517, 24 L. ed. 440 (1877), *United*

*States v. Santa Fe Pacific R.R. Co.*, 314 U.S. 339 (1941). It makes no difference whether or not the lands involved have been selected or selected and tentatively approved.

Respectfully submitted,

EDWARD WEINBERG.

WILMER, CUTLER & PICKERING,  
Washington, D.C., November 5, 1969.

HON. HENRY M. JACKSON,  
Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate, Washington, D.C.

On behalf of Western Oil and Gas Association, we submit its comments on the latest legislative proposal for settlement of the Alaska Native claims, the bill drafted by the Alaska Federation of Natives which has been introduced as Amendment No. 2211 and as S. 3041.

As you know, we have previously testified and submitted statements on the prior bills prepared by the Federal Field Committee (S. 1830) and the Department of the Interior (Amendment No. 112). The enclosed comments supplement our previous statements and, like them, are restricted to the three points of most direct interest to WOGA and its members on which we believe we have constructive suggestions to offer: (1) comprehensive description of the Native claims which are being settled and extinguished; (2) appropriate provisions for existing Federal and State mineral leases; and (3) authority for granting easements.

We respectfully request that these comments be included in the record of the hearings on this matter. Sufficient copies are enclosed for distribution to all members of the committee.

We appreciate the opportunity to submit these comments and hope they will be of assistance to the committee.

Very truly yours,

JOHN H. PICKERING.

[Enclosure]

COMMENTS OF THE WESTERN OIL AND GAS ASSOCIATION ON THE DRAFT BILL  
PROPOSED BY THE ALASKA FEDERATION OF NATIVES

Western Oil and Gas Association (WOGA), submits these comments on the draft bill prepared by the Alaska Federation of Natives to settle the Alaska Native claims, which has been introduced by Senator Stevens as a proposed amendment to S. 1830 (Amdt. No. 221) and by Senator Gravel as S. 3041. This bill is referred to as the AFN bill in these comments.

We have previously stated our position on the prior legislative proposals for settlement as follows:

The proposals of the Federal Field Committee for Development Planning in Alaska, embodied in S. 1830, are discussed in our testimony at the hearing on April 29, 1969 (pp. 139-151 of the printed hearings).

The proposals of the Department of the Interior, embodied in the amendment in the nature of a substitute to S. 1830 (Amdt. No. 112), are discussed in our supplemental statement submitted on August 15, 1969 (pp. 513-517 of the printed hearings).

These comments on the latest legislative proposal, the AFN bill, supplement our previous statements. As in those statements:

We take no position in these comments concerning the amount and terms of the settlement requested by the Alaska Federation of Natives, believing as we do that this is a matter to be decided by the Congress in the exercise of its judgment as to what is a fair and equitable settlement taking into account, of course, the positions of the parties most directly involved—the United States, the State of Alaska, and the Natives themselves. We continue, of course, to support a prompt, fair, and comprehensive legislative resolution of the Alaska Native claims, and we hope that the Committee can speedily fashion such legislation from the bills now before it.

Instead of getting into the detailed merits of the various settlement proposals, we limit these comments on the AFN bill, as we have limited our com-

ments on the other bills, to the following three points which are of direct interest to the oil and gas industry in Alaska represented by WOGA:

1. Comprehensive description of the Native claims which are being settled and extinguished;
2. Appropriate provisions for existing Federal and State mineral leases;
3. Authority for granting easements.

Our comments and suggestions on these three points with respect to the AFN bill are as follows:

#### I. COMPREHENSIVE DESCRIPTION OF THE NATIVE CLAIMS WHICH ARE BEING SETTLED AND EXTINGUISHED

The declaration of settlement in section 4 of the AFN bill is an improvement in one respect over the comparable provisions of the Federal Field Committee and Departmental bills (section 3(a) of S. 1830 and section 4(a) of Amdt. No. 112). The improvement is that the settlement extends, not only to the United States, but also to "the State of Alaska and all other persons". We advocated this improvement in our previous statements and are pleased to see it included in the AFN bill.

The declaration of settlement should be expanded, however, to include two additional points, also urged in our prior statements, to achieve the desired objective of a full and final settlement of the Alaska Native claims. These two points and the reasons for them, which are elaborated in our previous statements, are briefly:

First. Since some of the Native land claims are asserted for water as well as land areas, the settlement and extinguishment should cover submerged lands as well as uplands. This point appears to be recognized by the AFN statement that the Natives "are prepared for an extinguishment of anything that is based upon aboriginal title \* \* \* including claims relative to fishing rights so grounded" (Hearings, p. 301). Clearly, the status of the bottoms underlying waters should not be left uncertain if there is to be a full and final settlement of the Native claims.

Second. The legislation should extinguish all Native use and occupancy claims to land which are based upon any statute or treaty of the United States, not just those arising under the Act of May 17, 1884 or the Act of June 6, 1900, which are the only statutes cited in the bills of the AFN, the Federal Field Committee, and the Department of the Interior. As pointed out in our previous statements various other acts, including the Treaty of Cession itself, can be cited in support of the Native claims. The AFN has also recognized this point of the need for a "catchall" statutory citation. Thus, the AFN position paper of June 20, 1969, states (Hearings, p. 288) that the legislation should be a full and final settlement of any and all claims:

"Based upon aboriginal right, title, use, or occupancy of public lands in Alaska by any Native or Native group, arising under the Act of May 17, 1884 (23 Stat. 24) or the Act of June 6, 1900 (31 Stat. 321) or any other Act of Congress, including land claims pending before the Indian Claims Commission on the effective date of the Act." (Emphasis added.)

We accordingly urge that section 4 of the AFN bill be expanded to include these two points. That can easily be done by adding two inserts to the section which are shown by underlining in the following revision; in all other respects the text of the section remains unchanged:

#### *"Declaration of Settlement*

"Sec. 4. The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the State of Alaska and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska (*including submerged land underneath all water areas both inland and offshore*) by any Native or Native village or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), or any other statute or treaty of the United States relating to Native use or occupancy of land, including all land claims (but not claims based on grounds other than loss of original Indian title land) pending before any court or the Indian Claims Commission on the effective date of this Act."

## II. APPROPRIATE PROVISIONS FOR EXISTING FEDERAL AND STATE MINERAL LEASES

As pointed out in our prior supplemental statement of August 15, 1969 (Hearings, pp. 514-517), the departmental bill (Amdt. No. 112) appears generally satisfactory so far as existing Federal and State mineral leases are concerned. Under the Department's proposal:

(a) Leasable minerals would be retained by the United States;

(b) Under section 10(j), all patents would be subject to outstanding leases and to the right of the lessees to the complete enjoyment of all rights, privileges, and benefits granted by the leases; also, the income would continue to be received, and the administration of the lease would continue to be conducted, by the lessor;

(c) Land selections by the State of Alaska which have been tentatively approved would not be available for grant to the Natives; and

(d) The Natives would not share in the lease revenues received by the United States or the State of Alaska.

The scheme proposed in the AFN bill is, of course, radically different. Leasable and locatable minerals would be patented to the regional Native corporations and they would take over the lessors' interests in outstanding mineral leases issued by the United States or the State on the patented land. Tentatively approved State selections would be made available for grant to the Natives. During the transitional period between withdrawal and eventual issuance of patents, the power of the Secretary of the Interior to deal with the withdrawn lands is circumscribed, and following selection the Natives are given interim authority to issue mineral and other leases. The Natives would also share in lease revenues received by the United States and the State of Alaska on lands not patented to the Natives.

While we might prefer the Department's approach, particularly since it is much less complicated and avoids some of the drafting problems and questions presented by the AFN scheme, we adhere to our position of neutrality on the settlement terms advocated by the parties most directly concerned—the United States, the State, and the Natives. Accordingly, we are not objecting to the general AFN scheme since we understand the intent of the AFN bill is to recognize and protect existing Federal and State leases.<sup>1</sup> However, the bill's provisions in that regard in sections 12, 13, and 14 need to be improved and clarified in respect which we will outline. Also, for reasons which will be pointed out, we believe that the administration of existing Federal and State leases should remain with the Department of the Interior and the State, respectively.

The nature of the changes we suggest and the reasons for them are as follows. Language to accomplish them is attached as an appendix.

A. *Section 12.*—Section 12 of the AFN bill provides for four kinds of patents:

1. The surface of lands withdrawn for grants to villages is patented to the villages (§ 12(b) (1)).

2. The leasable and locatable minerals in such lands are patented to the regional corporations (§ 12(b) (3)).

3. The regional corporations also receive patents for all interests, surface and minerals, in other lands withdrawn under § 10(d) which they select to make up the total 40 million acre grant called for by the bill (§ 12(b) (4)).

4. In addition, certain Native applicants may receive patents for the surface (and in some instances the locatable minerals) of lands outside the areas withdrawn for the basic grants (§ 12(c)).

In each case, the patent is to be "subject to valid existing rights", and provision is made for the patentee to succeed to the lessors' interests in any existing leases.

<sup>1</sup> There are substantial questions, of course, as to whether Congress has power to make some of the grants the Natives suggest, particularly whether Congress can grant the Natives a share in the revenues received by the State of Alaska under leases issued by it, and whether Congress can grant tentatively approved State selections to the Natives. These questions are considered in various memoranda which have been submitted to the Committee, and we think it fair to say that although the arguments *pro* and *con* are persuasive in varying degrees, they are not entirely conclusive. In our previous statements we have, of course, set forth our belief—and the reasons in support thereof which we think are compelling—that the tentative approval of a State selection creates a vested right which is tantamount to the issuance of a patent. Nevertheless, if the leases which the State of Alaska has issued on tentatively approved selections pursuant to the authority expressly granted by section 6(g) of the Statehood Act are properly protected, we have no reason for objecting to the transfer of tentatively approved State selections to the Natives either by the State, or by Congress if Congress has the power to do so and believes that such should be done as an element of a fair and equitable settlement.

However, there is the possibility of confusion as to which patentees succeed to which leases—*e.g.*, the language of section 12(b) (1) is broad enough to vest a mineral lease in the surface patentee (the village), although it is clearly intended by section 12(b) (3) to vest mineral leases in the mineral patentees (the various regional corporations). Also, while the intent is to preserve the rights and privileges of the lessees, this is spelled out only in section 12(d) (1). However, that provision relates to the additional patents under section 12(c), not to the basic patents to the villages and the regional corporations under section 12(b), and is itself deficient in scope. Thus, although the patents referred to in section 12(d) (1) can only be for the surface and locatable minerals, the language used would make those patents simply subject to leases for the "surface or mineral resources covered under such patent". Those patents must also be made subject to leases of leasable minerals, particularly since the leasable minerals cannot be covered by such patents.

In addition, section 12 does not provide for what happens when only part of the land covered by a lease is patented. There are likely to be a number of such instances, given the size of the withdrawal and the uncertainty as to what lands will eventually be selected and patented to the Natives. Accordingly, provisions should be included providing for apportioning of lease revenues and for continued administration of the leases by the issuing agency, the Department of the Interior or the State. For this reason and also because of the time required to get the regional corporations organized and operating, we strongly urge that the administration of all existing Federal and State leases, including the powers reserved to extend or terminate them be retained in the United States and the State. The economic benefits of the lessor's interest could still be transferred, with appropriate provision being made for apportionment of those benefits where only part of a lease is included in a patent.

Since the Natives are asserting claims to State selections which have been tentatively approved but not yet patented, and are also proposing to take over some of those selections and the interest of the State as lessor under any leases issued on them under section 6(g) of the Statehood Act, certain additional provisions are needed in the AFN bill. Tentatively approved selections which are not patented to the Natives should be confirmed to the State, so as to clear them from any cloud posed by the Native position. Also, since the leases issued by the State on tentatively approved selections under section 6(g) of the Statehood Act contemplate the eventual issuance of a patent to the State, it should be provided that, if the State selection is patented to the Natives, the lease will be treated the same as if patent had been issued to the State.

For the foregoing reasons we suggest the following changes in section 12 of the AFN bill:

1. For internal consistency and clarity, the lease provisions in subsections (b) (1), (b) (3), and (d) (1) should be revised.
2. In these revisions, the administration of existing Federal and State leases should remain with the United States or the State. Also, provisions should be made for apportioning lease revenues in the event that only part of the land in a lease is patented.
3. A subsection should be added confirming to the State all tentatively approved State selections not patented to the Natives and making clear that State leases on any tentatively approved selections patented to the Natives are to be treated the same as if patent had been issued to the State.

Detailed language for these changes is contained in the appendix.

*B. Section 13.*—Section 13(b) provides that, pending selection by a Native village or regional corporation of withdrawn lands, the Secretary shall not, without the consent of the village or regional corporation, "issue, enter into or renew any lease, contract or permit covering withdrawn lands which will be in effect more than eighteen months after the effective date of this Act." This limitation on renewal could abridge rights granted under an existing lease. We therefore urge that the words "or renew" be struck.

Section 13(b) also gives the Natives the benefit of all revenues received from the use or disposition of withdrawn lands they select. Here, as in the case of section 12, provision needs to be made for apportionment of revenues to cover the situation where only part of the land covered by a lease is selected.

Detailed language to accomplish these changes in section 13(b) appears in the appendix.

*C. Section 14.*—Section 14 of the AFN bill—like section 12 of the Federal Field Committee bill (S. 1830) and section 11 of the Department bill (Amdt. No.

112)—would require competitive bidding for all future Federal mineral leases in Alaska. As set forth in our supplemental statement of August 15, 1969 (Hearings, pp. 515-516), we have no position on—either for or against—the general proposition of whether competitive bidding should henceforth be required for Federal mineral leasing in Alaska. However, if Congress should adopt competitive bidding, it should be made clear that leases for lands not within the known geologic structure of a producing oil or gas field will continue to be issued for a primary term of ten years and a maximum of 2,560 acres. As we have previously pointed out, the limitation to a primary term of five years and 640 acres now required for leases on lands within the known geologic structure of a producing oil or gas field, which are the only leases presently required to be issued by competitive bidding, would not be appropriate for leases outside of known structures in Alaska if they are to be issued competitively (Hearings, p. 516).

Suggested language to effect this clarification appears in the appendix.

Section 14 of the AFN bill also contains the Natives' proposal for sharing in royalties and other lease revenue received by the United States and the State of Alaska. We take no position on this proposal since it is part of the settlement terms and since, as we understand it, the Natives share would come out of the proceeds received by the lessor and would not affect the amount of the royalties, bonuses, rentals or other payments required of the lessee.<sup>2</sup>

### III. AUTHORITY FOR GRANTING EASEMENTS

In our previous statements we have suggested the need for having appropriate authority to create easements necessary in the public interest (including easements needed for the administration and utilization of Federal and State lands), both at the time of the grants, and also in the future, although we recognize the problems that reservation of the right to create future easements may cause. (See our original statement at pp. 150-151 and our supplemental statement at p. 517 of the hearings.)

We are pleased to see that the AFN bill recognizes this problem of easements and provides for it to some extent. Thus, following the withdrawal and pending selection by the Natives, section 13(b) authorizes the Secretary to grant easements for public purposes with the approval of the Alaska Native Commission and on specified conditions. Following selection but prior to patent, section 13(c) provides that easements for public purposes may be acquired by condemnation in accordance with the laws of the State of Alaska. Following patent, easements can apparently be acquired by grant from the patentee or by condemnation, but section 13(d) provides that for the period of 10 years after the effective date of the Act, the approval of the Alaska Native Commission is required for any grant of a permanent easement.

These provisions are an improvement over the prior bills of the Federal Field Committee and the Department of the Interior. Nevertheless, in view of the large withdrawal of upwards of 40 million acres which would be made by the AFN bill, we urge that consideration be given to the desirability of including some provisions for creation of easements needed in the public interest along the lines of our previous suggestions.

### APPENDIX

The following language is suggested to carry out the changes recommended in sections 12, 13, and 14 of the AFN bill by the foregoing comments. The line and page references apply to both amendments 221 and S. 3041.

#### I. CHANGES IN SECTION 12

1. In subsection (b) (1), strike the last sentence which reads (lines 7-11, p. 62):

"At the time of conveyance, the village corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor or landowner, in any leases, permits, contracts or rights-of-way covering the lands."

and substitute the following:

"Where, prior to patent of any land under this subsection, a lease, contract, or permit has been issued for the utilization of the surface or mineral re-

<sup>2</sup> The proposal is so explained in n. 1 of the Memorandum submitted on behalf of the AFN by its attorneys (Hearings, p. 364), and in their Reply Memorandum (Hearings, p. 587).

sources (including a lease issued under section 6(g) of the Statehood Act), the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States or the State, as lessor, contractor, or permitter, in any of such leases, contracts, or permits which are for utilization of the surface or non-mineral resources covered by such patent, except that the administration of any such leases, contracts, or permits (including the exercise of rights reserved to extend, renew, suspend, or terminate) shall continue to be conducted by the United States or the State and provided that if the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States or the State which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit."

2. In subsection (b) (3), strike the last sentence which reads (lines 1-5, p. 64) :

"At the time of such conveyance, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor, in any mineral leases covering such lands."

and substitute the following :

"Where, prior to patent of minerals under this subsection, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent (including a lease issued under section 6(g) of the Statehood Act), the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented, except that the administration of any such leases, contracts, or permits (including the exercise of rights reserved to extend, renew, suspend, or terminate) shall continue to be conducted by the United States or the State and provided that if the patent does not cover all of the land embraced within any such lease, contract, or permit, the regional corporation shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States or the State which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit."

3. In subsection (b) (4) delete the last sentence which reads (lines 11-15, p. 64) :

"At the time of such conveyance, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor or landowner, in any leases, permits, contracts or rights-of-way covering such lands."

and substitute the following :

"Where, prior to patent of any land under this subsection, a lease, contract, or permit has been issued for the utilization of the surface or mineral resources covered under such patent (including a lease issued under section 6(g) of the Statehood Act), the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented, except that the administration of any such leases, contracts, or permits (including the exercise of rights reserved to extend, renew, suspend, or terminate) shall continue to be conducted by the United States or the State and provided that if the patent does not cover

all of the land embraced within any such lease, contract, or permit, the regional corporation shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States or the State which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and denominator is the total acreage contained in such lease, contract, or permit."

4. Revise subsection (d) (1) (lines 17-25, p. 66 and lines 1-4, p. 67) to read as follows, the changes being to insert the language which is in italic and to delete the language which is bracketed:

"(d) (1) Where, prior to patent of any land under subsection (c), a lease, contract, or permit has been issued for the utilization of surface or mineral resources [covered under such patent] (including a lease issued under section 6(g) of the Statehood Act), the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States or the State, as lessor contractor, or permitter, in any of such leases, contracts, or permits [covering] *which are for utilization of the surface of [minerals patented] mineral resources covered by such patent, except that the administration of any such leases, contracts, or permits (including the exercise of rights reserved to extend, renew, suspend, or terminate) shall continue to be conducted by the United States or the State and provided that if the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States or the State which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.*"

5. Insert the following new subsection (e) between lines 17-18, page 67:

"(e) Nothing contained in this Act shall affect or prejudice the rights granted or reserved in any lease, contract, or permit issued by the United States or the State (including leases issued under section 6(g) of the Statehood Act) for utilization of surface or mineral resources which is outstanding on the effective date of this Act, and such rights are hereby confirmed subject, however, to the provisions for succession to the interests of the United States or the State and for distribution of the revenues reserved by the United States or the State thereunder which are contained in this Act. Any such lease issued under section 6(g) of the Statehood Act on land patented under this Act shall be treated for all purposes as if patent had issued to the State subject, however, to the provisions for succession to the interests of the State in such lease which are contained in this Act. All land selections by the State, which (1) prior to the effective date of this Act have been tentatively approved under section 6(g) of the Statehood Act but not yet patented to the State and (2) are not patented under this Act, are hereby confirmed and shall be patented to the State subject, however, to the provisions of subsection 14(d) of this Act."

## II. CHANGES IN SECTION 13

1. In line 21, page 68, strike the comma between the words "issue" and "enter" and insert in its place the word "or".

2. In line 22, page 68, strike the words "or renew".

3. Strike the period at the end of line 15, page 69, and insert in its place the following:

"provided, however, that if the selected land does not include all of the land covered by a particular lease, contract, or permit, then the amount to be paid to such village or corporation shall be reduced to the proportion which results from multiplying the revenues attributable to such lease, contract, or permit (after deducting the cost of administration thereof) by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the selected land and the denominator is the total acreage contained in such lease, contract, or permit."

## III. CHANGES IN SECTION 14

1. At the end of line 2, page 72, insert the following sentence:  
"Oil and gas leases for lands which are not within any known geologic structure of a producing oil or gas field shall be for a primary term of ten years and may include up to two thousand five hundred and sixty acres."
2. Make the same insertion at the end of line 15, page 73.

STRASSER, SPIEGELBERG,  
FRIED, FRANK & KAMPELMAN,  
Washington, D.C., October 24, 1969.

Re Alaska Native Claims Legislation.

Hon. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR JACKSON: For your information, I am enclosing three copies of a summary section-by-section analysis which I have prepared, covering the Alaska Native claims bill proposed by the Alaska Federation of Natives, and introduced by Senator Gravel as S. 3041, and by Senator Stevens as an amendment to S. 1830. After you have a chance to review the enclosure, I would deeply appreciate an opportunity, along with Ed Weinberg and some of the other attorneys involved, further to discuss the proposed legislation with you.

With kind regards,  
Sincerely yours,

ARTHUR LAZARUS, JR.

[Enclosure]

SECTION-BY-SECTION ANALYSIS OF BILL "TO PROVIDE FOR THE SETTLEMENT OF  
CERTAIN LAND CLAIMS OF ALASKA NATIVES" AS PROPOSED BY THE ALASKA FED-  
ERATION OF NATIVES

This memorandum is intended to accompany and explain the proposed bill to "provide for the settlement of certain land claims of Alaska Natives," as submitted to the Senate and House Committees on Interior and Insular Affairs by the Alaska Federation of Natives (AFN). Where appropriate, comparisons will be made to other pending bills on the same subject either derived from the Federal Field Committee report or recommended by the Department of the Interior.

DECLARATION OF POLICY

Section 2(a) summarizes the major elements of the land claims settlement legislation, as suggested in the AFN position paper of June 20, 1969, and as set forth in greater detail in subsequent sections of the bill. These key provisions include: a recognition of the claims of Natives and Native villages in Alaska based upon aboriginal land use and occupancy; a confirmation of title in Native village and regional corporations to 40 million acres of land; a payment of \$500 million and retention of an overriding 2% royalty as compensation for lands to which Native title has been or will be extinguished; authority for the organization of Native-owned development corporations, and for individual Natives to acquire ownership of land actually used for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry; and protection of subsistence hunting, fishing, trapping and gathering rights.

Section 2(b), as contained in the Field Committee and Interior Department bills, has been revised to declare a specific Congressional policy of "maximizing the participation by Natives in decisions affecting their rights and property and [of] vesting in them as rapidly as prudent and feasible control over the lands set aside and corporations organized pursuant to this Act." All too often, government paternalism, reflected in the withholding of decision-making powers from Indians, has inhibited their initiative, has prevented economic and social development, and has postponed the day when they can be masters of their own fate. The Natives of Alaska feel confident of their ability fully and freely to manage their own affairs and, if given the proper tools, to make a positive contribution towards growth of the State. To foster this goal, and in order to avoid the mistakes of the past, the AFN amendment is designed to demonstrate a legislative intent to vest in the Alaska Natives control over their lands and other property as quickly as prudent and feasible.

The term "wardship" has been dropped from subsection 2(b)(2), since this legal concept in its true sense never has been applicable to the Indians of the United States, and the word "ultimately" has been inserted in subsection (b)(3) to show that the Act will confer certain temporary tax benefits upon the Natives. A new sentence also has been added to section 2(c) to make clear that the payments and grants authorized under section 5 constitute compensation for the extinguishment of property rights and are not merely to be substituted for governmental programs which otherwise would be available to the Natives of Alaska.

#### DEFINITIONS

For ease in reference, and unlike the Committee and Interior Department bills, the definitions of terms used in the bill are given in alphabetical order.

Definitions have been included in section 3 for the terms "State", "regional corporation", and "village corporation", since these entities are mentioned repeatedly in the legislation. For the reasons given in connection with section 6, the word "Corporation" has been redefined to show that the Alaska Native Development Corporation will be organized under the laws of the United States. The definition of the word "person", on the other hand, has been dropped because it is not necessary.

The term "public lands" has been redefined (1) to clarify that lands selected by, but not yet patented to, the State are included therein, and (2) to limit the exclusion for improved land actually used in connection with the administration of any Federal installation. The purpose of these changes is to include as "public lands" all tracts still in Federal ownership to which Native title has not yet been extinguished and thus really to effect a complete settlement of Native claims.

"Who is a Native?" is basically a question for the Natives themselves to decide (*Patterson v. Council of Seneca Nation*, 245 N.Y. 433, 157 N.E. 734 (1927)), and the AFN definition of "Native" differs significantly from the definitions in the Field Committee and Interior Department bills. The Field Committee bill; for example, defines "Native" in part as "any Alaska Indian, Eskimo, or Aleut of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof," but does not establish any forum for deciding whether an individual meets that test. The Interior Department bill, by contrast, creates such a forum, but gives it too much power; in other words, a Native is defined thereunder as meaning any person the Alaska Native Commission determines to be of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof—apparently regardless of whether the Commission's determination is correct. The AFN proposal retains the basic definition of Native contained in the Field Committee bill and gives the Commission authority to determine eligibility, as in the Interior Department bill, but also provides for review of the Commission's findings by appeal to the courts (sections 6 (j), (k), and 7(b)(2)).

The AFN bill limits the Natives entitled to benefits under the Act to citizens of the United States, thus eliminating the possibility that Canadian members of Alaska Native groups may be enrolled. For purposes of clarity, the measure specifically recites that the term "Native" includes an individual "whose adoptive parent is not a Native." Since written records in many cases do not exist, the AFN bill further stipulates that, in the absence of proof of a minimum one-quarter blood quantum, the term "Native" also shall include any citizen of the United States who is, and whose parents are or were, considered to be Alaska Native by a local Native community. Although this provision may permit a few persons of little or no Native blood to qualify for benefits, such risk is far outweighed by the desirability of not excluding either persons who properly do qualify but have no proof of entitlement, or persons who have less than one-quarter Native blood but have long since assimilated into Native society.

The Field Committee and Interior Department bills both provide that the Tsimshian Indians (Metlakatla) shall not be considered Natives of Alaska because they originally came from British Columbia and were settled upon the Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 110). Consistent with this approach, the AFN bill excludes the Metlakatians from any share in the \$500 million provided under section 5(a) for the loss of lands held by virtue of aboriginal use and occupancy (see section 15(e)). AFN recognizes, however, that the Tsimshian Indians, who have lived in the United States for over seventy years, in many ways face the same problems and suffer from the same disabilities as other indigenous groups, and thus proposes that they be entitled as Natives to future benefits under the Act.

## DECLARATION OF SETTLEMENT

Section 4 of the AFN bill provides that this Act shall be regarded as a full and final settlement not only of all Native claims against the United States, as specified in the Field Committee and Interior Department bills, but also of all Native claims against the State of Alaska and all third parties based upon aboriginal right, title, use or occupancy of land. The AFN bill thus takes care of the legitimate concern expressed during the hearings by the State and a number of oil companies that, even after enactment of land claims settlement legislation the Natives would be free to challenge the rights of any land holder other than the Federal Government.

The AFN bill also takes into account the fact that the Indian Claims Commission and the Court of Claims have jurisdiction to entertain claims of Alaska tribes, bands or groups based on grounds other than loss of aboriginal Indian title lands, and the declaration of settlement has been appropriately amended to preserve such unrelated causes of action.

Finally, the matter of attorneys' fees and expenses, treated under section 4(b) of the Field Committee and Interior Department bills, is covered under section 17 of the AFN bill and will be discussed in connection therewith.

## ALASKA NATIVE COMPENSATION FUND

Section 5 of the AFN bill follows the pattern set in section 6 of the Field Committee bill by creating a special Alaska Native Compensation Fund in the Treasury of the United States.

Under the AFN bill, the United States would pay into the Fund direct appropriations of \$500 million and all additional revenues derived from a 2% overriding royalty upon the sale, lease or other disposition of public lands in accordance with section 14, as compensation to the Natives of Alaska for lands and interests in lands taken in the past or to which their rights and claims are extinguished by the Act. The justification for these payments already has been given in the written statements and oral testimony of Native representatives, and will not be repeated in this memorandum. Suffice it to say that the receipt last September of over \$900 million by the State of Alaska in bonus bidding for oil and gas leases upon only a fraction of the land subject to Native claims shows beyond question the fact that the AFN proposal is reasonable, provides for compensation far below the fair market value of the property, and will not place an undue financial burden upon either the State or the Federal Government.

The Interior Department bill calls for payment of \$500 million in installments of \$25 million each (without interest) over a twenty-year period, a formula which really accords the Natives a present value of only \$322 million. (See Report of Secretary of the Interior Walter J. Hickel on S. 1830, dated July 25, 1969, hereinafter referred to as "Hickel Report", p. 6) AFN believes that the Natives are entitled to full value for their property at the time of its loss and, if the United States is to make payment in installments, interest should be provided upon the unpaid balance at the traditional rate of 4%. On the ground that the Interior Department proposal would authorize distribution over too long a period and in annual amounts too small to support many needed development projects, AFN bill also provides for an eight-year, instead of a twenty-year, pay-out.

Section 7(h) of the Interior Department bill calls for a direct payment by the Secretary of each yearly installment of compensation to the Alaska Native Development Corporation, a procedure which would circumvent the normal annual appropriations process in Congress. The AFN bill follows the regular legislative scheme of authorizing appropriations. In order to assure the Natives that their compensation will be paid, and following the precedent of the Boulder Canyon Project Adjustment Act (Act of July 19, 1940, as amended, 43 U.S.C. 618a(c)), however, section 5(c) of the AFN bill further declares that the payments due the Natives shall constitute "contractual obligations of the United States," which, of course, would be enforceable in the Court of Claims.

## ALASKA NATIVE COMMISSION

Like the Field Committee and Interior Department bills, the AFN bill would authorize the creation of an Alaska Native Commission, as an independent Federal agency, to administer many provisions of the Act and also to decide a number of questions, such as entitlement to enrollment and boundary disputes, which

may arise under the Act. As set forth in section 6(k) of the AFN bill, the duties and responsibilities of the Commission would be far more extensive than its functions under either of the other proposals—a fact which lends even greater weight to the policy decision implicit in all three bills that the Commission could best operate outside the structure of the Interior Department. Since a basic purpose of the proposed legislation is to break away from traditional forms of Federal-Native relationships and to break new ground in Native self-development, AFN feels quite strongly that the Alaska Native Commission should be fully independent and not housed in the same department as the Bureau of Indian Affairs.

Under the AFN bill, the Commission would have five members, all of whom would become full-time Federal employees; not more than three members could belong to the same political party, and at least three members would have to be Natives. Members would be appointed by the President, but no recommendation is here given as to whether such appointment should be "with the advice and consent of the Senate," AFN's opinion being that this issue properly can be decided only by the Congress. In order to encourage continuity in policies and expertise, Commission members would serve staggered terms.

The AFN bill strengthens the legislative provisions governing operations of the Commission by including the following changes:

(1) section 6(c) removes from the chairman alone and vests in the entire Commission the power to designate a place of hearing outside its normal office;

(2) the word "shall" is substituted for "may" in sections 6 (f) and (g) to assure the right of all parties to present evidence on their own behalf and that all official action will be in writing open to public view;

(3) section 6(f) makes clear that a party may appear for himself or through counsel;

(4) section 6(h) provides a specific criminal sanction for failure to comply with a Commission subpoena;

(5) section 6(h) also provides a mechanism for making information in the possession of other government agencies or departments readily available to the Commission and the parties;

(6) in view of the remoteness of many of the parties involved, section 6(j) increases the time for seeking judicial review from thirty to sixty days; and

(7) section 6(j) also drops the unusual feature of the Field Committee and Interior Department bills, which would authorize appeals from the Federal District Court in Alaska to the eleven Courts of Appeals, in favor of directing all appeals to the United States Court of Appeals for the Ninth Circuit.

As set forth in section 6(k) of the AFN bill, the duties and responsibilities of the Commission would cover the preparation of Native membership rolls and a roster of Native villages, and the determination of eligibility for inclusion thereon, the appointment of incorporators for the Alaska Native Development Corporation and the approval of articles of incorporation for Native corporations, the hearing of appeals from decisions of the Corporation refusing to approve a village plan for the management and expenditure of its funds, the settlement of land disputes and the certification of eligibility for patents, and the approval of certain land transactions. The Commission also would be given authority to review and comment upon, but not suspend or veto, the annual budgets of the Native corporations for a period of ten years. As an exception to the general rule, and in order to forestall the possibility that the expenditure of funds may be tied up by litigation for years, rulings of the Commission on appeals from decisions of the Corporation are not made subject to judicial review (see sections 6(j) and 9(f) (6)).

#### ENROLLMENT

Given the fact, as experience elsewhere has demonstrated, that the preparation and promulgation of a final Native membership roll will require at least five years to complete, a key problem presented in every version of the land claims settlement legislation is whether the Natives shall be entitled in the interim to make decisions and/or receive financial benefits under the Act. The field Committee and Interior Department bills both proceed on the premise that, unless and until placed upon the membership roll, a Native will not qualify for any rights or benefits under the Act. Moreover, since neither bill establishes a deadline for the preparation even of an "initial roll," the net result is to vest

in non-Natives, such as the Secretary or the Commission, the power during early years to make vital decisions affecting the Natives' own funds, property and future welfare.

In order to facilitate the selection and management of lands, the use of funds and the organization of corporations by the Natives themselves, section 7(a) of the AFN bill provides that the Secretary shall prepare within six months after the effective date of the Act a "temporary census roll" of all Natives living on December 31, 1969. The temporary census roll would serve two major purposes: first, inclusion thereon would entitle a Native to vote for directors of the Alaska Native Development Corporation, and in elections involving other Native corporations and village land selection committees; and, secondly, the Native population as shown on the roll would be the basis for determining the number of acres of land to which village and regional corporations would be entitled. In short, the temporary census roll would provide a means for the Natives to select lands and start operations of their development corporations without waiting years for preparation of an official membership roll.

The temporary census roll, of course, will be far less complete and accurate than the final membership roll. Accordingly, section 7(a) (2) of the AFN bill specifies that "the temporary census roll shall not be used as a basis for determining the right of any individual, any village or corporation to receive funds and property or otherwise to share in the benefits accorded the Natives of Alaska under this Act." In other words, unlike the Field Committee and Interior Department bills, the AFN bill distinguishes between the right to receive financial benefits, where absolute correctness of the membership roll is essential in order to carry out the purposes of the legislation, and the right to participate in decision-making, where only a substantial majority of all eligible Natives need be identified in order to carry out Congressional intent.

The Secretary's decision regarding the eligibility of any person for inclusion on the temporary census roll shall be final, except that any person listed on an existing membership roll of a Native village shall be conclusively presumed to be eligible. Basically, the Secretary will be conducting a head count, without any real effort being made to investigate claims of eligibility, but the chances that any person will give false information to qualify himself or another for inclusion on the census roll are reduced by making such conduct subject to criminal sanction (see section 7(e)). In view of the nature of the temporary census roll and the finality of the Secretary's decisions with respect thereto, the six-month deadline for its completion seems entirely reasonable.

Under section 7(b) and (d) of the AFN bill, the Commission is directed to prepare: (1) a final Native membership roll within five years after the effective date of the Act; and (2) a roster of Native villages eligible for benefits under the Act, in addition to the villages listed in section 10(c), within three years after its effective date. To ensure fairness and accuracy, the Commission is further directed to publish the roll and roster, respectively, before final promulgation, and an opportunity is accorded "any person or village denied enrollment or omitted from the roster . . . to protest such denial or omission to the Commission," and to "the Secretary or any Native village listed in section 10(c) \* \* \* to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native villages." Protests are made subject to hearings and judicial review.

Each Native is given the right to designate the village in which he and his children under the age of nineteen are to be listed as members and, in the absence of protest by the named village, such designation shall be final. In the event of a protest, the Commission is vested with authority to determine the village of which a Native is a member in accordance with a scheme of priorities set forth in the statute. A Native need not be a present resident of a village in order to qualify for membership therein.

Finally, under section 7(c) of the AFN bill, the Commission is directed to establish procedures for maintaining a membership roll containing the names of Natives born during the twenty-year period after December 31 of the year in which the Act becomes law, since such afterborn children also have a right to share in all benefits under the Act except membership in the Alaska Native Development Corporation.

## ALASKA NATIVE DEVELOPMENT CORPORATION

The Field Committee, Interior Department and AFN bills all call for creation of an Alaska Native Development Corporation, but the AFN bill materially differs from the two other proposals in the following significant respects:

(1) The Field Committee and Interior Department bills both provide that the Alaska Native Development Corporation shall be an Alaska corporation, even though the Hickel Report concedes that "we are still concerned that some of the Corporation's activities might be considered incompatible with the laws of Alaska" (p. 5). AFN recognizes that State law now or as hereafter enacted may not comport with efficient operation of the Corporation and that, under such circumstances, Congress would be unable to remedy the difficulty. Accordingly, the AFN bill provides that the Corporation be organized under the provisions of this Act, or, in other words, under the laws of the United States. In order to promote conformity with State practice, on the other hand, the AFN bill further provides in section 8 (i) and (j) that the rights and powers of the Corporation, and the rules governing its internal affairs, shall track the laws of the State of Alaska with certain necessary exceptions. The AFN bill also preserves the stipulation that the Corporation shall not be an agency or establishment of the United States Government.

(2) The Field Committee and Interior Department bills both contemplate that the Alaska Native Development Corporation will be a business corporation, with the Natives as stockholders, and that the Corporation will be entitled to receive, expend, distribute, invest, manage or otherwise use all funds due the Natives from the United States under the Act. The AFN bill, on the other hand, establishes the Alaska Native Development Corporation as a non-profit membership corporation, which will retain only 5% of the money distributed out of the Alaska Native Compensation Fund (section 8 (f) and (g)), and which will serve primarily as a service organization to advise, help and guide regional and village business and development corporations (section 8(i)). Indeed, section 8(h) of the AFN bill specifically declares that the Corporation "shall be considered a public instrumentality eligible for grants and contracts for planning and development programs which will assist Natives, Native villages and Native corporations under any Federal law."

(3) The Field Committee and Interior Department bills so structure and internal organization of the Alaska Native Development Corporation that it will be dominated and controlled by non-Natives for years after its formation, the end date for control by non-Natives (and thus non-stockholders) under the Interior Department being June 30, 1991. The AFN bill, on the other hand, is designed to give the Native owners of the Corporation control over the organization not later than nine months after the effective date of the Act (section 8(b) (1)). In addition, until Native directors are elected, the powers of the initial board of directors are limited to the completion of incorporation and such other acts as are essential to start the operations of the corporation (section 8(b) (3)).

(4) As above noted, the Field Committee and Interior Department bills both provide that the Alaska Native Development Corporation shall be the sole organization for investment, expenditure or distribution of money derived from the Native Compensation Fund. AFN takes the position, and believes that the State of Alaska concurs, that any single private company having the assets thereby vested in the Corporation would yield undue influence and economic power within the State. Furthermore, given the vast distances between points in Alaska and the great differences between Native communities in different parts of the State, AFN feels that a single statewide corporation cannot help but be unfamiliar with and thus potentially unresponsive to local needs and aspirations. Accordingly, the AFN bill establishes the Corporation as merely the top of a pyramid, with the bulk of all funds received to be distributed to regional and village corporations.

## OTHER NATIVE CORPORATIONS

Section 9(a) of the AFN bill authorizes the Commission to divide the State of Alaska into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests.

In the absence of good cause shown to the contrary, such regions will approximate the areas covered by the operations of Native associations already in existence. Under section 9(b), a regional corporation would be created under Federal law for each of the twelve Native regions of Alaska.

Section 9 of the AFN bill in large measure would vest in the twelve regional corporations the business and investment functions which the Field Committee and Interior Department bills would concentrate in a single Alaska Native Development Corporation. Thus, each regional corporation would be a stock corporation, with the stockholders of the corporation being the Natives of the region and with the stock being distributed and subject to the limitations set forth in section 9(e). The most important of these limitations (1) withhold the right to receive dividends until the final membership roll is promulgated, (2) restrict the alienation of stock for twenty years except by will or intestacy, and (3) deprive non-Natives of the right to vote stock for twenty years. Similarly, under section 9(i), each regional corporation may exercise all rights and powers given a business corporation under Alaska law, and the internal affairs of the corporation are to be governed in accordance with the laws of the State of Alaska relating to business corporations, with certain necessary exceptions.

Unlike the statewide Corporation which, under the AFN bill, would be essentially a planning and service organization, the regional corporations would build projects and conduct on-going development programs, so such corporations under section 9(b) (2) are to be considered political subdivisions of the State for the purpose of being eligible for grants, loans and contracts for planning, housing assistance, economic development, public works, construction and other programs which will assist Natives, Native villages and Native corporations under any Federal law. In addition, each regional corporation will be authorized to manage lands, interests in lands and subsurface (mineral) rights to which it will acquire a patent under section 12(b) (3) and (4) of the Act, the proceeds from such resources being divided one-half to the region in which the property is located and one-half to all other regional corporations on the basis of population (section 9(g) (2)).

The AFN bill in treatment of the regional corporations also comes to grips with an unresolved problem presented in the Field Committee and Interior Department bills. Specifically, both other bills vest inconsistent functions in the Alaska Native Development Corporation, to wit: business functions, such as the investment of funds and making of commercial loans, and charitable functions, such as grants for health and welfare or the relief of distress (section 7(f)). Quite obviously the directors would be torn between their responsibilities towards the owners of the Corporation and their duties towards the beneficiaries of the Corporation, who as the years go by will increasingly fall within two different classes.

The foregoing problem is handled under section 9(f) of the AFN bill by dividing inconsistent functions and by requiring each regional business corporation to organize an affiliated non-profit membership corporation to carry out those programs which are not designed to make money. The non-profit corporation will be funded by further requiring the regional corporation to distribute to the affiliate not less than 10% nor more than 50% of its net income. The non-profit aliates, in turn, would be prohibited from distributing more than 20% of the money received from the regional corporations to eligible Natives, and then only in accordance with "family plans," which for the individual or family involved, as the case may be, will require expenditure of any such payment for constructive purposes.

Section 9(f) of the AFN bill follows the pattern of funneling a substantial portion of the compensation paid the Natives for the loss of their aboriginal lands from the statewide Corporation to the twelve regional corporations, and through the regional corporations to village corporations. In order to preserve flexibility, and subject to the limitations set forth in section 9(k), a Native village may organize pursuant to section 9(j) as a corporation under the laws of the State of Alaska, or of any other State or the District of Columbia, or in accordance with any applicable Federal law. A village corporation shall not be eligible to receive funds from the regional corporation, except for planning purposes, until it has developed an initial five-year program for the management, investment and expenditure of such funds, and this program has been approved by the Alaska Native Development Corporation (section 9(f) (6)).

## WITHDRAWAL OF PUBLIC LANDS

The Field Committee, Interior Department and AFN bills all provide for the revocation of Public Land Order No. 4582, the so-called "land freeze," and, as a preliminary to the recognition of Native land titles, for the temporary withdrawal from appropriation of public lands in each township which encloses all or part of a Native village listed in the statute.<sup>1</sup> The Interior Department and AFN bills also call for the withdrawal from appropriation of public lands in each township which is contiguous to or corners upon the township or townships in which the Native village is located, while the AFN bill further provides for the withdrawal of additional townships up to a total of nine if fewer otherwise would be withdrawn because of the location of the village on an island, along the coast or near an international boundary.

The Field Committee and Interior Department bills, with minor differences in text (such as the inclusion in the latter measure of the term "subject to all valid existing rights"), both specify that the lands shall be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. Both bills also exclude from the withdrawal lands reserved for national defense purposes, other than petroleum reserve numbered 4. Since no reason exists in law or equity for denying Natives subsurface rights in their own lands or for treating defense reserves differently from other Federally withdrawn lands, the AFN bill provides that all public lands as defined in the Act within the affected townships shall be "withdrawn, subject to valid existing rights, from selection by the State and from all forms of appropriations under the public land laws, including the mining and mineral leasing laws."

Finally, in order to enable the Native to select up to 40 million acres of land pursuant to section 11, without having to compete with the State or hold up all State selections, section 10(d) of the AFN bill also provides for the withdrawal, subject to valid existing rights, from selection by the State and from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, of all public lands within sections 5-8, inclusive, of every township in the State of Alaska not otherwise withdrawn in accordance with section 10. Sections 5-8 in every township, of course, have been selected at random—just as sections 16 and 36 were set aside under the School Lands Act—and any other block of four sections in each township would be equally appropriate to accomplish the purposes of the proposed legislation.

## SELECTION OF PUBLIC LANDS

Section 11(a) of the AFN bill provides that each Native village listed in Section 10(c)<sup>2</sup> shall be entitled to select, within eighteen months after the effective date of the Act, a total of 92,160 acres or 500 acres per member, as shown on the temporary census roll prepared pursuant to section 7(a), whichever amount is greater, from the lands withdrawn in accordance with section 10. Where the Native villages within any region, as defined in section 9(a), are entitled to select in the aggregate less than 5% of the total land area of the region, such villages are granted a right to select additional land up to 5% of the total land area of the region. The purpose of this extra entitlement is to mitigate the impact of the land settlement upon the subsistence Indian villages of interior Alaska and along the North Slope which otherwise would lose a far higher percentage of the lands which they now use and occupy than the more populous Native villages along the western and southeastern coast. In exercising its selection rights, a village would first have to designate contiguous lands within the surrounding withdrawn townsites and could select non-contiguous tracts withdrawn pursuant to section 10(d) only if the public lands in the surrounding townsites were not sufficient to satisfy its entitlement.

The AFN bill thus provides for each Native village an amount of land sufficient for community use, expansion and development, and an amount of land reasonably related to the Natives' current needs as well as past patterns of use and occupancy. By contrast, the Field Committee bill would allow each village

<sup>1</sup> The list of Native villages, as set forth in section 10(c) of the AFN bill, contains more names than the list in either other bill, including, in particular, villages and cities having a substantial Tlingit and Haida population.

<sup>2</sup> A Native village, as defined in section 3(e), which is not listed in section 10(c), but is listed on the roster prepared by the Commission pursuant to section 7(b), will not be entitled to select land, although otherwise entitled to benefits under the Act.

a maximum of only 23,040 acres, a drop in the bucket compared to the acreage now used. Moreover, if the township in which the village is located does not contain 23,040 acres of public land, the deficiency could be made up only after a complex procedure of certification by the Commission leading up to public hearings by the Secretary (section 8(b)).

Similarly, section 8(a)(1) of the Interior Department bill would authorize each Native village to select only two townships—the one in which the village is located and one from the surrounding townships—and such selection could ripen into a patent to a maximum of 46,080 acres (section 10(b)). As a practical matter, however, the village patent would be reduced in size by patents to individuals and organizations (section 10(a)), and, of course, minerals covered by the mineral leasing laws also would be excluded. More significantly, the Interior Department bill authorizes the issuance of a patent only to an “incorporated native village” (section 10(b)), which is defined in section 3(h) as “any village incorporated as a governmental unit under the laws of the State of Alaska,” even though it appears that some Native villages will not qualify so to incorporate (see Title 29, Alaska Statutes, § 29.25.030). Finally, the Tlingit and Haida villages would be limited to a maximum of 23,040 acres (sections 10(c) and 12).

The Interior Department bill specifies that each Native village shall make its land selection within one year (after which the withdrawal is revoked) “in accordance with rules and regulations established by the Secretary,” but makes absolutely no provision for safeguarding the village’s land selection rights if the Secretary fails or refuses to establish such regulations. This oversight is corrected in section 11(b) of the AFN bill, which specifically designates the village organizations authorized to make land selections and which directs the Secretary to hold a village election to pick a land selection committee where no authorized organization exists. Section 11(c) of the AFN bill also spells out a procedure for resolving overlaps where two or more villages select the same lands—a problem which is briefly touched in the Field Committee bill (section 10(c)(3)) and wholly ignored in the Interior Department bill.

The justification for the provisions in the AFN bill confirming Native title to 40 million acres in the State already has been given in the written statements and oral testimony of Native representatives, and will not be repeated in this memorandum. Given the number of Native villages listed in section 10(c) and an estimated Native population in the temporary census roll of about 60,000, less than 40 million acres will be subject to village selection under sections 11 and 15 of the AFN bill. Accordingly, section 11(d) authorizes the regional corporations “to select, during the period beginning eighteen months and ending ten years after the effective date of this Act, from the public lands withdrawn in accordance with section 10(d), such amount of land as represents the difference, if any, between 40,000,000 acres and the total acreage selected by Native villages.”

#### CONVEYANCE OF LANDS

Section 12(a) of the AFN bill requires the Secretary to survey townships withdrawn and areas selected for conveyance of Native villages and regional corporations, as well as certain defined lands within such tracts, and is comparable to section 9 of the Interior Department bill.

Section 12(b)(1) of the AFN bill provides that, upon completion of the survey of lands selected by a Native village, the Secretary shall issue a patent or patents to such village (if and when it qualifies to own real property) to the land and all interests therein, except minerals covered by the mining and mineral leasing laws, which under section 12(b)(3) are to be patented to the regional corporation for the region in which the village is located. Any village patent shall be subject to valid existing rights and also subject to the terms of section 12(b)(2), which in turn provides that the Native village:

(1) must issue deeds to the occupants, without payment of any consideration, to the surface of tracts occupied by Natives on September 1, 1969, as a primary place of business or residence, or for subsistence campsites or reindeer husbandry;

(2) must issue deeds to the occupants, upon payment of the fair market value for such property, to the surface of tracts occupied by non-Natives on September 1, 1969, as a primary place of residence or business;

(3) may issue deeds to the occupants, in the discretion of the village either without consideration or upon payment of an amount not in excess of fair market value, to the surface of tracts occupied on September 1, 1969,

by nonprofit organizations for the purposes for which such organizations were established; and

(4) may issue deeds to the occupants, upon payment of the fair market value for such property, to the surface of tracts occupied on September 1, 1969.

The AFN bill thus eliminates the requirement of the Field Committee and Interior Department bills that village lands be granted to non-profit organizations without any payment, and allows the Native owners discretion to charge or not to charge for such property, with a safeguard that all nonprofit organizations be treated on the same basis.

Section 12(b) (4) of the AFN bill provides that, upon completion of the land selection by a regional corporation, the Secretary promptly shall issue a patent or patents to such corporation to the land and all interests therein, including minerals covered by the mining and mineral leasing laws. AFN further takes the position that the owner of land should be entitled to the benefits therefrom, so section 12, contrary to section 10(j) of the Interior Department bill, provides that, upon conveyance, the Native village or regional corporation, as the case may be, shall succeed and become entitled to any and all interests of the United States or the State, as lessor or prior landowner, in any leases, permits, contracts or rights-of-way covering such lands.

Unlike section 13 of the Interior Department bill, the AFN bill would not repeal the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended. Section 12(c) of the AFN bill provides a further mechanism for Natives to obtain patents outside withdrawn areas under limited circumstances for homes, places of business, campsites and reindeer grounds, and is a simplified substitute for more detailed provisions in the Field Committee and Interior Department bills covering substantially the same subject (see section 10(d) *et seq.*).<sup>3</sup> Section 12(d) of the AFN bill corresponds to section 10(j) and (k) of the Interior Department bill, with an amendment to insure that Native landowners will enjoy the full benefits of their property.

#### ADMINISTRATION OF LANDS

AFN believes that the provisions of the Field Committee and Interior Department bills (section 8(c)) dealing with the management of lands withdrawn for the benefit of Native villages are inadequate and misconceived. In short, even though the Native villages now are the beneficial users of such property and ultimately will have clear title thereto by virtue of the legislative settlement, the Field Committee bill directs that withdrawn land be administered for the benefit of the Alaska Native Development Corporation, while the Interior Department bill would channel all income therefrom to the Federal Government. Moreover, both bills vest unreviewable control over the use, management and administration of the land in the Secretary, so he would be fully authorized to grant leases, permits or concessions thereon without the consent of the Natives.<sup>4</sup>

Section 13 of the AFN bill, on the other hand, limits the Secretary's power to dispose of land eventually destined for Native ownership and makes the Natives the beneficiaries of their own property. Specifically, section 13(b) provides that, pending selection by a Native village or regional corporation, the Secretary is authorized to take such action as shall be necessary to administer, manage and protect withdrawn public lands, but may not enter into a lease, contract, or permit which extends more than eighteen months after the effective date of the Act, and must pay over the net revenue from use of the land to the village or regional corporation involved. Section 13(c) provides that after selection, but before a patent issues, the Native village or regional corporation may lease or otherwise dispose of the land on the same terms and conditions as an organized Indian tribe, subject to the approval of the Alaska Native Commission. Section 13 also establishes procedures for the issuance of easements and rights-of-way across withdrawn and selected lands, a subject not expressly covered in either the Field Committee bill or the Interior Department bill.

<sup>3</sup> Whereas all public lands would be open to patent under the AFN and Field Committee bills, the Interior Department bill generally would exclude "land within the National Park System, National Wildlife Refuge System, and National Forest System, and land withdrawn or reserved for national defense purposes, other than petroleum reserve numbered 4. . . ."

<sup>4</sup> To make matters worse, even after patent to a Native or Native village the Federal Government would continue to receive the revenue from the lease, permit or contract under section 10(i) of the Interior Department bill.

As a precautionary measure against improvident transactions before business experience is acquired, section 13(d) provides that, although a village or regional corporation may hold, manage, lease or dispose of patented lands and interests therein, including minerals, in accordance with the laws of the State, the Native corporations for a period of ten years may sell or enter into long-term commitments with respect to land only with the approval of the Commission. For the purpose of effecting land consolidations or facilitating the management and development of land, section 13(a) of the AFN bill also permits village and regional corporations to exchange land, interests in land and water rights with each other and with the State or the United States.

#### ROYALTY ON DISPOSITION OF PUBLIC LANDS

The justification for reserving to the Natives a 2% overriding royalty upon proceeds from government leasing and mineral development in Alaska already has been given in the written statements and oral testimony of Native representatives, and will not be repeated in this memorandum. Section 14 of the AFN bill is designed to achieve this objective, and is patterned in part upon section 12 of the Field Committee bill.<sup>5</sup>

In general, section 14 would recognize in the Natives a 2% interest in land of the State outside the tracts to which they acquire title. This interest would not exist with respect to land patented before January 1, 1969, or apply either to the Outer Continental Shelf or to minerals subject to the mining laws, but would cover timber and surface uses (section 14(c)) and minerals subject to the mineral leasing laws. The Natives' interest also would extend to petroleum reserve numbered 4, which, in order to make that interest meaningful, would be opened to competitive leasing by the Secretary, with the concurrence of the Secretary of Defense (section 14(b)).

Section 14(a)(2) of the AFN bill declares that 2% of the rentals and bonuses received from the leasing in Alaska of minerals subject to the mineral leasing laws during the period beginning January 1, 1969, and ending on the effective date of the Act, including leasing by the State on tentatively approved land under section 6(g) of the Statehood Act, shall be paid into the Alaska Native Development Fund. Section 14(a)(2) also provides that, out of any royalty paid under leases entered into during the same period, the Natives shall receive an amount equal to 2% of the gross value of the minerals before calculation of the respective shares of the State and the United States in such royalty. The latter provision, of course, is intended to give effect to the Native interest without placing any additional royalty burden upon the lessee.

Section 14(a)(3) establishes a comparable Native interest in the proceeds of mineral leases entered into after the effective date of the Act. Section 14(d) expressly stipulates that the reserved Native interest in land shall not operate to prevent State selections under the Statehood Act, but further provides that every patent to the State shall be subject to the overriding Native royalty. Finally in order to create an effective means of enforcement, section 14 provides in essence that the Natives' royalty interest will be collectible by the United States on their behalf.

#### REVOCATION OF RESERVATIONS; EXCEPTIONS

AFN strongly believes that no Native group should end up after passage of land claims settlement legislation in a position worse than it had occupied before enactment of the statute. Accordingly, the AFN bill eliminates any special provisions for the Tlingit and Haida Indians, notwithstanding the fact that in 1968 they, after many years of litigation, were successful in a suit against the United States to obtain compensation for the loss of some, but not all, of their aboriginal land. *Tlingit and Haida Indians v. United States*, 389 F. 2d 778 (Ct. Cl., 1968). Similarly, section 15(e) of the AFN bill grants to the Native village of Metlakata the Annette Islands Reserve created by the Act of March 3, 1891 (26 Stat. 1101), and preserves for 50 years the fishing rights of the Tsimshian Indians given recognition in *Metlakatla Indian Community v. Egan*. 369 U.S. 45 (1962).

<sup>5</sup> Since the Secretary has not endorsed a royalty formula, section 11 of the Interior Department bill is inappropriate in Native claims legislation. Section 11 would open up petroleum reserve numbered 4 to mineral leasing by the Secretary of the Interior without approval by the Secretary of Defense, and would change the mineral leasing laws to require competitive bidding, but has no relevance to Native lands.

Section 15(a) of the AFN bill, like section 16 of the Field Committee bill and section 14 of the Interior Department bill,<sup>6</sup> would revoke the various reserves heretofore set aside for Native use. Consistent with the above mentioned AFN position that the legislation should not operate to the detriment of any Native group, section 15(b) gives each village now having a reserve set aside for its use or benefit a right to select such reserve in lieu of the land to which it otherwise would be entitled, and it is expected that villages having some of the larger reserves, such as Venetie, will exercise this option. By the same token, section 15(c) would authorize the Native village of Tyonek to retain subsurface rights in the Moquawkie Reserve (while giving up its proportionate share of minerals elsewhere), and section 15(e) would continue in effect the terms of the Act of November 2, 1966 (80 Stat. 1094), relating to lands in the Pribilof Islands.

#### PROTECTION OF SUBSISTENCE RESOURCES

The setting aside of 40 million acres of land for Native use, as provided in sections 10-12 of the AFN bill, clearly will be insufficient to sustain the subsistence hunting and fishing activities upon which many Native groups still will depend for years to come. Accordingly, section 16(a) provides that "the Natives of Alaska shall have a right to hunt, fish, trap, gather fuel and pick berries or other natural food products for subsistence purposes" on lands withdrawn for their benefit and on public lands for a period of one hundred years. Subsistence uses on public lands would be subject to restriction by the head of the agency having jurisdiction therein, and the rights of Natives on patented lands would expire on the date of patent or twenty-five years after the effective date of the Act, whichever later occurred.

Section 16(b) of the AFN bill authorizes the Secretary of the Interior to provide special protections for the biotic resources of the State, and is similar to Section 13 of the Field Committee bill.

#### ATTORNEYS' FEES AND EXPENSES

The Field Committee and Interior Department bills both include provisions (section 4(b)) for the payment of attorneys' fees and expenses which are incomplete and which, in all likelihood, violate existing contracts, approved by the Secretary, between counsel and Native tribes, bands or groups covering the prosecution of claims before the Indian Claims Commission. Section 17 of the AFN bill, on the other hand, calls for the payment of attorneys' fees in accordance with approved contracts where Indian Claims Commission cases are involved, and also takes into account the fact that the most valuable services rendered the Natives by their lawyers deal not with litigation, but rather with the land claims settlement legislation.

Specifically, instead of vesting responsibility for paying or determining legal fees in the Alaska Native Development Corporation or the Alaska Native Commission, section 17(a) of the AFN bill provides that, in the case of attorneys' fees and out-of-pocket expenses incurred in the prosecution of claims litigation under a contract approved by the Secretary, "the amount of such fees and reimbursable expenses shall be determined in accordance with such contract or, if the contract does not provide for compensation in the event of a dismissal [as the Act would require], by the Secretary on a *quantum meruit* basis." In addition, section 17(b) provides that legal fees and expenses of Native groups incurred for representation in connection with the claims legislation are also to be paid, provided that the amount of such fees and reimbursable expenses shall be subject to approval of the Secretary pursuant to the terms of the attorneys' contract. In this regard, the AFN bill follows the pattern of the Interior Department bill in calling for a separate appropriation of an amount sufficient to pay counsel fees and disbursements allowed under the Act.

#### TAXATION

Section 7(h) of the Field Committee bill and section 7(f) of the Interior Department bill declare that the sums paid by the United States to the Alaska Native Development Corporation for the extinguishment of Native title to land

<sup>6</sup> Interestingly, the Field Committee and Interior Department bills both make revocation subject only "to any valid existing right of any nonnatives." AFN suggests that, in Native land claims settlement legislation, the revocation of reserves should be made subject to any valid existing rights of Natives too.

shall not be subject to Federal or State taxation.<sup>7</sup> The rationale for this rule is, quite properly, that the Government should not be in a position of paying for the Natives' property and then taking back a sizeable portion of that payment through taxation. Actually the transaction could be viewed even under the ordinary tax laws as a conversion by the Natives of a capital asset to cash upon which no income is realized.

Section 18(a) of the AFN bill carries the foregoing principle to its logical conclusion by declaring that the lump-sum compensation for land, and any interest earned with respect thereto while the funds are under Federal control, shall be non-taxable not only in the hands of the Corporation, but also upon distribution to any other Native corporation or individual Native. Section 18(b) creates the same tax-exemption covering revenue derived from the 2% overriding royalty for a period of twenty years, but thereafter subjects such income to taxation upon distribution "on the same basis as like income is taxed when received by a non-Native individual or corporation." Other paragraphs of the AFN bill stipulate that funds received by a Native corporation for which it acts as a conduit and, therefore, which must be turned over to another Native corporation shall not be income to the conduit corporation, but shall be income to the corporation ultimately receiving the benefit thereof. See sections 8(f) (1), 9(f) (7), and 9(g) (3).

Experience elsewhere in the United States has demonstrated that the imposition of real estate taxes is a frequent cause of land passing out of Indian ownership. Accordingly, under section 18(c) of the AFN bill, land to which a Native village or regional corporation acquires title shall be exempt from State and local real property taxes for a period of fifty years. Municipal taxes or assessments, however, may be levied upon individually-owned real property, and easements, rights-of-way, leaseholds and similar interests may be taxed in accordance with State or local law. Similarly, all "rents, royalties, profits, and other revenues or proceeds derived from such lands and mineral rights shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation."

#### REVIEWED BY CONGRESS

AFN has revised the provisions relating to Congressional review as set forth in the Field Committee and Interior Department bills to require more thorough reports from the Secretary and the Commission, and to make sure that Native views will be made known.

#### APPROPRIATIONS

Section 20 of the AFN bill is comparable to section 16 of the Interior Department bill.

#### PUBLICATION

Section 21 of the AFN bill contains an amendment to section 17 of the Interior Department bill authorizing the Commission as well as the Secretary to publish appropriate rules and regulations in the Federal Register.

#### SAVINGS CLAUSE

Section 22 of the AFN bill is comparable to section 18 of the Interior Department bill.

WYMAN, BAUTZER, FINELL, ROTHMAN & KUCHEL,  
Beverly Hills, Calif., September 16, 1969.

Senator HENRY M. JACKSON,  
Chairman, Interior and Insular Affairs Committee,  
U.S. Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Transmitted herewith, in response to the request of the Committee during the August 7-8 hearings on Alaska Native claims legislation, is a legal opinion on behalf of The Alaska Federation of Natives.

This opinion concludes that the Congress has the authority to reserve for the Natives of Alaska, in a legislative settlement in which the Natives' land claims are adjusted and settled, a 2-percent royalty from proceeds received by the State

<sup>7</sup> Section 7(f) of the Field Committee bill also exempts the income of the Corporation from taxation for ten years.

and the United States in disposing of the oil and other mineral and surface resources of federally owned lands in Alaska, including land selected by the State for transfer to it pursuant to the Alaska Statehood Act (P.L. 85-508, 72 Stat. 339) and tentatively approved, but not yet patented, by the Secretary of the Interior. These lands include the north slope acreage involved in the State's \$900 million September 10 oil lease sale. The opinion also concludes that Congress has the authority to provide for fee title to the Natives in lands selected by the State for transfer to it pursuant to the Statehood Act and tentatively approved, but not yet patented, by the Secretary of the Interior.

The 2-percent royalty would be applicable both in the case of those Federal lands selected by the State under the Statehood Act and thereafter patented to the State from which, otherwise, the State would realize 100 percent of the revenues and those lands retained in Federal ownership as to which, in the absence of a 2-percent royalty interest for the Natives of Alaska, the State would receive a 90-percent share of the revenues accruing to the United States from the leasing of oil and other minerals.

Counsel for the State of Alaska argued at the hearing that by the Alaska Statehood Act Congress had divested itself of the authority to allocate these lands and revenues for the benefit of the Natives.

For the reasons set out in the enclosed memorandum, it is clear that not only does the Statehood Act not prevent the exercise by the Congress of the power to reserve such benefits for the Natives of Alaska, but more particularly, that section 4 of the Statehood Act was carefully tailored to accommodate just such a possibility.

We are transmitting this memorandum for Paul, Weiss, Goldberg, Rifkind, Wharton & Garrison and Strasser, Spiegelberg, Fried, Frank & Kampelman, as well as ourselves, as counsel for the AFN. We respectfully request that it and this letter be made a part of the record of the hearings.

We also respectfully request an opportunity to review the opinion to be filed with the Committee by the State of Alaska and to submit such additional comments, if any, as may be warranted.

An additional copy of our memorandum is enclosed for your use.

Sincerely yours,

THOMAS H. KUCHEL.

(The legal opinion on behalf of The Alaska Federation of Natives referred to in the letter above is on p. 364, of Part 2.)

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#### ANALYSIS OF PROPOSALS FOR THE SETTLEMENT OF ALASKA NATIVE LAND CLAIMS

(Prepared by Esther Wunnicke, for the Federal Field Committee for Development Planning in Alaska, October 1969)

In the 90th Congress five separate proposals for settlement of Alaska Native land claims were before the Senate Committee on Interior and Insular Affairs, and four of these were before the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs. The Senate Committee held hearings in Alaska in February, 1968, on the proposals then before it. Hearings were held in July in Washington by the House Subcommittee. Except for the first bill filed, which asked for approval of jurisdiction in the Court of Claims to hear land claims of Alaska Natives based upon aboriginal use, all of the 1968 bills combined grants of land, grants of money or revenue shares as compensation, and various supervisory and management organizations as the elements of a requested legislative settlement of the claims.

At the request of the chairman of the Senate Committee on Interior and Insular Affairs the Federal Field Committee for Development Planning in Alaska prepared a massive and comprehensive report on *Alaska Natives and the Land*. In addition, again at the request of Senator Jackson, the Committee staff prepared a proposal outlining recommended elements of a Native land claim settlement. The proposal was submitted to Senator Jackson in February. Legislative draftsmen of the Department of the Interior prepared the proposal in legislative language, and it was introduced as S. 1830 by Senator Jackson for himself and Senators Gravel and Stevens of Alaska, on April 15, 1969. Hearings were held on it in Washington by the Senate Committee April 29, 1969, and again in August, 1969, by both House and Senate Committees, and on September 9 by the House Subcommittee. This bill is most often identified as the Federal Field

Committee proposal. It was introduced in the House by Congressman Pollock as HR 10193.

In testimony on S. 1830 in April, alternative proposals were made by the Department of the Interior; and in preparation for the August hearings the Department presented additional comments and proposed amendments to S. 1830. In so doing, a suggested draft bill was presented; and although it was not introduced in the Senate, it was introduced by Congressman Pollock in the House as HR 13142. It is identified as the Department of the Interior proposal.

Alaska Natives, represented by the Alaska Federation of Natives, testified on S. 1830 at both the April and August hearings by the Senate Committee. Subsequently, as a proposed amendment to S. 1830, they have submitted a suggested draft bill which was proposed as an amendment to S. 1830, on October 2, by Senators Gravel and Stevens of Alaska and introduced by Congressman Pollock on October 6, as H.R. 14212.

The first hearings scheduled in Alaska by the House Subcommittee on Indian Affairs of Committee on Interior and Insular Affairs, were held in Alaska the week of October 13-26, 1969.

FEDERAL FIELD COMMITTEE PROPOSAL—(S. 1830—H.R. 10193)

*Land provisions*

This bill provides for *surface title* in fee to individuals for homes inside and outside of villages, campsites and other subsistence harvest sites, and surface title to the remainder of lands up to a township (23,040) acres for each of 209 listed villages when such villages are organized as governmental units under the laws of the State of Alaska. *Mineral title* to granted lands is given a statewide Alaska Native Development Corporation with prohibition against transfer of the mineral rights except to the United States or State of Alaska.

Except for the exclusion of the Metlakatla Reservation from the terms of the bill and the granting of an option to the Tyonek Reserve to take under the bill or receive title to the present Tyonek Reserve, all reserves are abolished.

No grants of subsistence use of the public lands are proposed. Reliance for protection of subsistence resources is placed in state management. Upon petition, however, threatened subsistence resources may be protected by denial of access to particular public land areas for other than subsistence users.

Grants to individuals for remote homesites presently occupied and for areas for reindeer husbandry (up to 2,560 acres for each bona fide reindeer husbandryman) are provided.

*Compensation*

Regardless of place of residence all Alaska Natives now living (except those of Tsimshian blood) as *individuals* are to share equally as stockholders in an Alaska Native Development Corporation designed to administer monies and revenues paid as compensation.

Initial compensation of \$100 million is to be paid into an Alaska Native fund in the Treasury.

In addition, a 10 percent share of revenues to be derived from the resources of the public lands in Alaska is provided, as well as 10 percent of the revenues received by the United States from the disposition of minerals from the Outer Continental Shelf bordering Alaska. These revenues are to be shared for a period of ten years.

Another source of revenues is application of competitive bidding procedures by the Secretary of the Interior, with the concurrence of the Department of Defense, to avel Petroleum Reserve No. 4, with the revenues from that source during a ten-year period to be divided: 45 percent to the Treasury until the \$50 million investment in Naval Petroleum Reserve No. 4 has been recovered; 45 percent to the Native land claim fund; and 10 percent to miscellaneous receipts of the Treasury. These percentage shares in future revenues are designed to compensate for rights extinguished by the terms of the Act. A maximum of \$100 million is authorized to be paid from the fund each fiscal year for a term of ten years.

*Machinery*

Eligibility to share in the settlement is determined by an enrollment to be conducted by the Secretary of the Interior. Adjudicative determinations as to entitlement or resolution of conflict are to be made by a three-member Alaska Native Commission to be appointed by the President with the advice and consent of the Senate.

Investments, business and development decisions respecting the compensation paid, as well as the management of minerals conveyed, are to be made by a statewide Alaska Native Development Corporation. For ten years after chartering the Alaska Native Development Corporation is to be considered a public corporation for the purpose of applying for and receiving federal grants or assistance for planning and development programs. Initially, it is to be incorporated under the laws of the State of Alaska, and governed by a nine-member board composed of the chairman of the Alaska Native Commission, *ex officio*, four members appointed by the President, and four Native members elected by the Natives of Alaska. Staggered terms and an increase in the number of Native directors would result at the end of three years in a Native majority on an eleven-member board.

All restrictions, special powers and conditions are to cease at the end of ten years, and the status of the corporation then is to be that of an ordinary business corporation.

DEPARTMENT OF THE INTERIOR PROPOSAL—(H.R. 13142—AS AMENDMENT TO S. 1830)

#### *Land provisions*

This bill provides for withdrawal of up to nine townships for each of 195 villages from which grants of surface title are to be made to individuals for homes, campsites, other subsistence harvest sites and reindeer husbandry, as well as *surface title* and *title to locatable minerals* of up to two townships (46,080 acres) for each of 195 listed villages and up to one township (26,040 acres) for each of 13 listed villages in southeast Alaska. The bill also provides for the withdrawal of all minerals covered by the mineral leasing laws under the lands withdrawn. No leasable minerals, however, are to be conveyed to Natives. An additional provision excepts all of public lands in Alaska subject to disposition under the Native Claim Act from disposition under the Mineral Leasing Act of 1920. These provisions would prevent selection of the lands by the state for their mineral wealth and also permit competitive leasing although no purpose under the proposed Native land claim settlement would seem to be served.

During the period of withdrawal and before patent (as much as 20 years) the bill provides for retention of income from the lands by the lessor, e.g., the Department of the Interior or the Department of Agriculture.

No provision is made for protection of subsistence resources beyond the increase from one to two townships for each of most villages.

All reserves are extinguished with the exception of the Reservation at Metlakatla. Tyonek Reserve is treated the same as all other reserves under the bill. This raises the query of to whom future royalties are to be paid on leases previously issued on Tyonek lands.

#### *Compensation*

Total compensation of \$500 million for lands taken in the past or claims extinguished by the legislation is to be authorized and appropriated by the Congress in \$25 million annual payments over a period of twenty years.

A statewide Alaska Native Development Corporation is to receive the funds appropriated, with \$1 million to be advanced for paid-in capital.

#### *Machinery*

Resolutions of conflict and adjudicative decisions are to be made by a three-member Alaska Native Commission appointed by the President and authorized for twenty years to (a) determine those who qualify as "Native," (b) prepare a roll of eligible Natives and a roster of additional villages, (c) appoint corporation's initial incorporators, and (d) settle land occupancy disputes.

An Alaska Native Development Corporation governed by a nine-member board of directors, five of whom are appointed by the President and four of whom are elected by the stockholders, is to manage and invest funds paid as compensation under the bill. The corporation is subject to General Accounting Office audit and other limitations for a twenty-year period.

Except as noted, the draft bill proposed by the Department of the Interior generally follows H.R. 10193 and S. 1830. Although land conveyances proposed conform to earlier Interior proposals (the first Interior bill proposed village grants up to 50,000 acres per village) the amount of compensation, the appointment of an independent commission, and the authorization of an Alaska Native Development Corporation are all departures from earlier Interior positions.

*Land*

At least nine townships (the one containing all or part of a village and all those contiguous or cornering that township) around each of 242 villages are to be withdrawn as well as all public lands within Sections 5, 6, 7, and 8 in every township. From withdrawn lands villages may select four townships (92,160 acres) or up to 500 acres per person as shown on a temporary census. Selections are to be made within a 40 million acre total, but aggregate of village selections within each of twelve regions designated is not to be less than 5 percent of the total land area of the region. Selections are to be made within 18 months by the villages, and thereafter, during the remainder of a ten-year period, regional corporations may select from Sections 5, 6, 7, and 8 in each township lands sufficient to equate the 40 million acre total.

All mineral rights—including those covered by mining and mineral leasing laws—under the lands selected by villages or regional corporations are to be conveyed to the appropriate regional corporation.

Individual homesite, campsite, and reindeer husbandry tracts are to be conveyed to appropriate individuals by villages. Outside of withdrawn areas individual tracts may be obtained by Alaska Natives after three years' occupancy and application to and certification by the Alaska Native Commission.

During the period of withdrawal and before patent, the Secretary is directed to manage the lands and hold the proceeds therefrom for the appropriate village or regional corporation as though each were an Indian tribe organized under the Indian Reorganization Act.

Subsistence use protected by 100-year rights to go upon the public lands and emergency closure provisions similar to those in the Federal Field Committee proposal are also included.

*Metlakatla Reservation* is recognized (together with exclusive fishing rights for 50 years) as well as *Tyonek* reserve in fee.

*Compensation*

As partial compensation a grant of \$500 million is to be paid: \$100 million during the fiscal year in which the Act becomes effective and \$50 million during each of the next eight fiscal years.

Additional compensation is to be derived from 2 percent perpetual royalty on all resources of all lands not heretofore patented to the state or third parties. Revenues from rentals and bonuses beginning *January 1, 1969*, are to be distributed under the Statehood Act except that 2 percent is to be deducted from the rentals and bonuses and deposited in the Alaska Native fund before computation of state-federal shares is made. After the effective date of the Act all leases are to provide for a 2 percent royalty payable to the Alaska Native fund. The royalty is also to apply to Naval Petroleum Reserve No. 4 and to the sale or lease of all surface sources. All leasable minerals are to be leased on competitive bid.

*Machinery*

Village, regional, and statewide corporations are provided for with ultimate distribution of funds to be: from the Alaska Native Development Corporation (a nonprofit membership corporation governed by a twelve-member elected board) to the regional corporation in relation to Native population of each region, 95 percent of all funds; and from the regional corporation (considered a business corporation) to the village corporations in relation to the Native population of each village, 80 percent of the funds received by the regional corporation. Proceeds from minerals to which regional corporations acquire patent are distributed: 50 percent to the corporation within whose boundaries the mineral-producing lands are located and 50 percent to all regional corporations in proportion to the Native population of each region.

An Alaska Native Commission with a twenty-year life composed of five members appointed by the President, is given specific responsibility in determining regional boundaries, settling disputes between villages, preparing rolls and rosters necessary for the administration of the bill, as well as approval of corporate charters and amendments and approval of annual budgets of all corporations. At least three of the commissioners must be Alaska Natives and no more than three may be from the same political party.

Most of the selection complications of S. 2906, introduced in the 90th Congress, are avoided, but all of the complications with respect to regional, village and statewide corporations are retained. Most of these provisions establish "Native" institutions rather than ordinary business or municipal organizations.

## POSITION OF THE STATE OF ALASKA

Although there has been no "State of Alaska bill" submitted either as a new bill or in the form of an amendment to S. 1830, there are numerous areas where the State of Alaska has expressed support for positions which are at variance with the foregoing proposals now before the Congress. It has, therefore, seemed appropriate to note the position of the State of Alaska in the comparative analysis which follows. Comparison is made between: the specific provisions of S. 1830, identified herein as the *Federal Field Committee Proposal*; the draft bill submitted with its comments by the Department of the Interior, identified herein as *Proposal of the Department of the Interior*; and the amendment to S. 1830, identified herein as the *Proposal of the Alaska Federation of Natives*. Where appropriate, the expressed position of the State of Alaska on specific portions of the proposals under examination is given in italics under the comments on the Proposal of the Alaska Federation of Natives. The position of the state is derived from testimony of Governor Miller before both Senate and House Committees in 1969.

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>A. LAND</p> <p>What lands are the source of land grants?</p>	<p>All public lands, except lands withdrawn for national defense purposes other than Naval Petroleum Reserve No. 4 in each township which contains all or part of named villages. Sec. 8. Public lands are defined as all situated in Alaska, except any lands used in connection with the administration of any federal installation. Sec. 2(e).</p>	<p>All public lands except lands withdrawn for national defense purposes, other than NPR 4, which enclose all or part of named villages or which are contiguous to or cornering on the township which encloses named villages. Sec. 8(a)(1) and 8(a)(2). "Public land" is defined as "all federal land and interests therein situated in Alaska, except any improved land used in connection with the administration of any federal installation." Sec. 3(e).</p>	<p>All public lands situated in Alaska defined as "all federal lands and interests therein situated in Alaska, as of the effective date of this Act", including lands selected by, but not yet patented to, the State, except the smallest practicable tract (but not less than forty acres), as determined by the Secretary, enclosing improved land actually used in connection with the administration of any federal installation." Sec. 3(f). Royalty provisions apply to all federal lands. Sec. 14</p> <p><i>The state supports the inclusion of Reserves, other than those used for Native purposes, in lands available for settlement. Lands available should not include those subject to the valid, existing rights of homesteaders, mineral lessees or subject to state selection under the Statehood Act.*</i></p> <p>All public lands in each township which encloses all or part of any Native village listed plus those townships which are contiguous to or corner upon the township(s) within which the listed Native villages are located with a minimum of nine townships to be withdrawn, as well as all public lands within Sections 5 through 8 of every township in the State of Alaska not otherwise withdrawn. Sec. 10(b), Sec. 10(d).</p>
<p>What lands are to be withdrawn for the purpose of making land grants?</p>	<p>All public lands except those withdrawn for national defense purposes other than NPR 4, which enclose all or part of named village listed in Sec. 8(a)(1). In addition, upon certification by the Commission, additional adjacent lands to assure a minimum of 23,040 acres per village are to be withdrawn. Sec. 8(a)(2).</p>	<p>All public lands except those withdrawn for national defense purposes, other than NPR 4, which enclose all or part of named villages or which are contiguous to or cornering on the township which encloses named villages. Sec. 8(a)(1) and 8(a)(2). Townships which enclose all or parts of the villages listed in Sec. 12(2).</p>	<p><i>The position of the State of Alaska is shown in italics in this column throughout.</i></p>
<p>Although the various proposals are sometimes designated as "Acts" in the analysis which follows, it is, of course, recognized that none are now acts and are, at most, bills pending.</p>			

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVE PROPOSAL
<p>For how long are the lands to be withdrawn?</p>	<p>Ten years. Sec. 8(a).</p>	<p>Townships enclosing villages are withdrawn until June 30, 1991. Townships cornering or contiguous to village townships are withdrawn for one year. The withdrawal of minerals covered by the mineral leasing laws shall continue until terminated by the Secretary or by Congress. Sec. 8(d).</p>	<p>Lands adjacent to villages are to be selected within eighteen months from the effective date of the Act and released from withdrawal status at that time, unless they overlap other selections and are subject to dispute, in which event they shall remain in withdrawn status until three months after settlement of the overlap. Sec. 11(c)(2). Sections 5 through 8 in every township which have not been selected are to be restored ten years after the effective date of the Act to the status in which such lands had been placed prior to the effective date of the Act. Sec. 11(e).</p>
<p>Who manages lands during period of withdrawal?</p>	<p>The Secretary of the Interior. Sec. 8(c).</p>	<p>The administrator presently charged with the administration of the subject lands--in most cases the Secretary of the Interior or the Secretary of Agriculture. Sec. 10(j).</p>	<p>Period of withdrawal should be no more than one year.</p> <p>Secretary of the Interior manages lands pending selection under prohibition against making permanent disposal of land or, without consent of beneficiary for whom the land is withdrawn, entering into any lease or contract of more than eighteen months duration. Sec. 13(b). After selection and before patent the village or corporation selecting the land has the right of management. Sec. 13(c). Permanent disposals and long-term contracts are subject to approval of the Alaska Native Commission for a period of ten years. Sec. 13(d).</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
Who receives proceeds from lands during period of withdrawal?	The statewide Alaska Native Development Corporation receives proceeds after deduction of costs of administration by the Secretary. Sec. 8(c).	Income derived from leases, contracts or permits during the period of withdrawal and before patent shall continue to be received by the lessor, contractor, or permitter, e. g. the Secretary of the Interior. Sec. 8(j).	The village or corporation later receiving title to the selected lands. Sec. 12(b)(1)(a)(2).
What is the definition of Alaska Native for purposes of land grants?	"Native" means any Alaska Indian, Eskimo, or Aleut of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, and any individual recognized by a Native group as an Alaska Indian, Eskimo, or Aleut, but does not include any Tsimshian Indian of Metlakatla. Sec. 2(b).	"Native" means any Alaska Indian, Eskimo, or Aleut who the Commission determines to be of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, and any other individual who the Commission determines to be a Native under rules and regulations that it shall establish, but does not include any Tsimshian Indian. Sec. 3(b).	"Native" means a citizen of the United States who is an Alaska Indian, Eskimo, or Aleut of one-fourth degree or more Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, including any Native as so defined whose adoptive parent is not a Native, and, in the absence of proof of a minimum blood quantum, also any citizen of the United States who is regarded as an Alaska Native by the Native village of which he claims to be a member and whose father or mother is (or was) regarded as Native by such village or any other Native village listed. Sec. 3(d).
What land grants are to be made to individuals?	Patents to the surface within withdrawn areas are to be made to the individual or organization occupying such land at the time of survey in the following order of priority: land for individual use; subsistence campsites; and community lands. Sec. 10(a) and Sec. 10(h)(1). Public lands outside withdrawn areas which have been used by a Native or Native group for a period of more than three years prior to the effective date of the Act shall be (continued)	Patents to surface and locatable minerals are to be made from lands withdrawn under Sec. 12 or selected by Native villages under Sec. 8 to the individual or organization occupying such land as a primary place of residence or primary place of business. Sec. 10(a). Upon application to and certification by the Commission, patents may be issued to Native or incorporated Native village applicants for campsite and other subsistence sites. Patents are to be for (continued)	Native villages, after receipt of patent of selected lands, are to issue deeds to occupants of surface of tracts occupied September 1, 1969, as primary places of residence, business, or subsistence campsites (up to five acres per individual for subsistence campsites or forty acres per group) and up to 2,500 acres per individual for reindeer husbandry). Non-Native occupants are to be issued deeds upon payment of the fair market value of property occupied by them September 1, 1969, and the village may, (continued)

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>What land grants are to be made to individuals? (Cont'd)</p>	<p>patented, as to surface only, to such users. Sec. 10(d). Up to 2,560 acres of surface lands in use for reindeer husbandry on January 1, 1969, may be patented to bona fide reindeer husbandrymen. Sec. 10(e). A Native whose primary place of residence is outside withdrawn areas provided in Sec. 8(a) may apply for and receive patent to no more than 160 acres of unreserved and unappropriated public lands. Sec. 10(f).</p>	<p>surface only. Applicants must prove use for three years, and lands which are available for this purpose exclude National Park System, National Wildlife Refuge System, and National Forest System, as well as land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4. Sec. 10(d). Similarly such lands are not available for grants to reindeer husbandrymen of surface rights of tracts which do not exceed a total of 2,560 acres for each reindeer husbandryman. Sec. 10(e). Patents may be issued to 160 acres of surface within areas withdrawn under Sec. 8(b) to individual Native for whom such land is his primary place of residence. Sec. 10(f).</p>	<p>In its discretion, issue deeds to nonprofit organizations without compensation. Sec. 12(b)(3).  Individuals may receive tracts outside withdrawn areas: for campsites used more than three years prior to the effective date of the Act (five-acre limit to individuals and forty-acre limit to groups); up to sixty acres where individuals can establish historic occupancy under rules to be established by the Commission; up to 2,560 acres of lands heretofore leased, permitted or used for reindeer management; and up to 160 acres for primary place of residence or business used for one year prior to application therefor to the Commission. Sec. 12(c).  <i>Oppose patent of 160 acres to occupants outside of village lands and oppose provision allowing urban natives to patent 160 acres after one year's residence.</i></p>
<p>What is the definition of "Native group"?</p>	<p>"Native group" is defined as any tribe, band, clan, village, community or association in Alaska which is composed of 25 or more Natives and which is approved by the Secretary of the Interior. Sec. 2(C).</p>	<p>None given.</p>	<p>None given.</p>
<p>What is the definition of "Native village"?</p>	<p>None given.</p>	<p>"Native village" means any tribe, band, clan, group, village, community, or association in Alaska which is composed of 25 or more Natives and (continued)</p>	<p>"Native village" means any village listed in Sec. 10(c) of this Act, and unless expressly provided to the contrary, also any other identifiable tribe, band, clan, (continued)</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>What is the definition of "Native village?" (cont'd)</p>	<p>Surface of any public land within area withdrawn under the Act may be patented, upon application, to the local government having jurisdiction of the land applied for. Sec. 10(c)(1). Such application and patent may also include lands within withdrawn area which are outside the jurisdiction of the appropriate local government so long as total conveyances under this subsection do not exceed 23,040 acres for each local government. Sec. 10(c)(2). Where more than one local government applies for the same lands, preference is to be given to the smallest unit of local government. Sec. 10(c)(3).</p>	<p>which is determined as such by the Secretary. Sec. 3(c).</p> <p>"Incorporated Native village" means any village incorporated as a governmental unit under the laws of the State of Alaska. Sec. 3(h).</p>	<p>group, village, or community in the United States which is composed of 25 or more Natives, regardless of whether or not resident in a predominantly Native area. Sec. 3(e).</p> <p>"Native village" definition should include the criterion that it is a "traditional Native village."</p>
<p>What land grants are made to villages?</p>	<p>Patents may be issued of up to 46,080 acres to incorporated Native villages listed in Sec. 8 and of up to 23,040 acres to those villages listed in Sec. 12. Patents are to surface and locatable minerals and are acquired by application to and certification by the Commission to the Secretary. Sec. 10(b) and Sec. 10(c).</p>	<p>Each Native village listed is to be granted a minimum of 92,160 acres (four townships) or 500 acres per member as shown on temporary census roll. Sec. 11(a)(1). If such acreage added to that of all other villages in the region totals less than 5 percent of the land area of the region, an additional grant is to be made to increase aggregate village entitlement to 5 percent of the land area of the region. Sec. 11(a)(1)(2). Grants are to surface.</p>	<p>Village grants should include locatable minerals and all surface resources, but should not include leaseable minerals.</p> <p>Support a minimum of one township for each recognized Native village and up to four townships per village where population and resources justify it.</p>
<p>What land grants are to be made to regional associations of corporations?</p>	<p>None.</p>	<p>Regional corporations are entitled to select lands to equal the difference between total village selections and 40,000,000 acres, apportioned among the regional corporations in direct relation</p>	<p>(continued)</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p><u>What land grants are to be made to regional associations or corporations? (Cont'd)</u></p>	<p>Mineral estates of all withdrawn lands patented to individuals or local governments are to be patented to the Alaska Native Development Corporation. Sec. 10(g).</p>	<p>None</p>	<p>to the population of the Native villages within each region. Sec. 11(d).  All minerals covered by the mining and mineral leasing laws under lands conveyed to villages are to be conveyed to the regional corporation for the region in which the village is located. Sec. 12(b) (3).</p>
<p><u>What land grants are to be made to a state association or corporation?</u></p>	<p>Reserves set aside by legislation, executive or secretarial order are revoked. Sec. 16. Tsimshian Indians are excluded in the definition of Alaska Natives and it was intended that the Annette Islands Reserve was to continue in its present condition as a legislatively created reservation. Tena'ina Indians of the Moquawkie Reserve are given the option of receiving a grant of 26,918 acres in fee simple except for the prohibition against alienation of the mineral estate to other than the United States or the State of Alaska; taking under the terms of the Act; or receiving grant of the present reserve to a recognized unit of local government established in place of the present council. Sec. 15.</p>	<p>Reserves set aside by legislative, executive or secretarial order are revoked. Sec. 14.</p>	<p>None. Although the state corporation receives a portion and is the unit through which funds received from "overriding royalty" compensation are channeled. Sec. 8(e).</p>
<p><u>What is the disposition of present reserves or other lands withdrawn for Native use?</u></p>	<p>Reserves set aside by legislation or by executive or secretarial order are revoked, but such lands are included in the definition "public lands," and may be withdrawn and selected by the appropriate village under the procedures outlined in Sec. 10. In addition, each Native village may vote to acquire title to the reserve or reserves set aside for its use prior to the effective date of the Act. If the reserve is smaller than entitlement under Sec. 10-12, other lands may be selected in addition. Sec. 15(b)(d), Sec. 11(b). Except for Tyonek the villages acquire the same title and interest in reserves chosen as other villages acquire in lands selected. Tyonek may vote to acquire title to the Moquawkie Reserve and be entitled to receive surface, as well as oil, gas and other minerals. If Tyonek village so elects, it may share in compensation of \$500 million, but not in</p>	<p>Reserves set aside by legislative, executive or secretarial order are revoked. Sec. 14.</p>	<p>Reserves set aside by legislation or by executive or secretarial order are revoked, but such lands are included in the definition "public lands," and may be withdrawn and selected by the appropriate village under the procedures outlined in Sec. 10. In addition, each Native village may vote to acquire title to the reserve or reserves set aside for its use prior to the effective date of the Act. If the reserve is smaller than entitlement under Sec. 10-12, other lands may be selected in addition. Sec. 15(b)(d), Sec. 11(b). Except for Tyonek the villages acquire the same title and interest in reserves chosen as other villages acquire in lands selected. Tyonek may vote to acquire title to the Moquawkie Reserve and be entitled to receive surface, as well as oil, gas and other minerals. If Tyonek village so elects, it may share in compensation of \$500 million, but not in</p>

(continued)

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>What is the disposition of present reserves or other lands withdrawn for Native use? (cont'd)</p>			<p>other benefits accorded Natives of Alaska under the Act. Sec. 15(c).</p> <p>Annette Islands Reserve (and exclusive fishing rights for 50 years) are granted to the Native village of Metlakatla, and neither the village nor any persons who qualify for enrollment as Alaska Natives solely because of their Tsimshian Indian blood shall be entitled to share in the \$500 million compensation, but shall be entitled to all other benefits under this Act. Sec. 15(e).</p> <p><i>Present Native reserves, except Metlakatla, should be revoked.</i></p>
<p>Are any Natives of Alaska excluded from the land portion of the settlement?</p>	<p>By definition Tsimshian Indians are excluded from the Act. Sec. 2(b).</p>	<p>By definition Tsimshian Indians are excluded from the Act. Sec. 3(b).</p>	<p>No.</p>
<p>Do urban Natives share in land grant provisions?</p>	<p>No. Land grants are made to those Alaska Natives now using and occupying the land. However, provisions of Sec. 10(f) seem to provide that within a ten-year period, urban Natives may choose to establish residence outside of withdrawn areas and be entitled to patent of surface of up to 160 acres. Sec. 10(f).</p>	<p>No. However, Sec. 10(h) provides for application to the Commission before June 30, 1991 for patent to 160 acres of surface of public lands located in Alaska and classified for that purpose by any Native nineteen years of age or older whose primary place of residence or primary place of business is, at the time of the survey, outside withdrawn areas.</p>	<p>No present grants are made to individual Natives who live in urban areas as their primary place of residence. However, within the ten-year period of withdrawal, residence for one year seems to entitle an Alaska Native to no more than 160 acres of land. Sec. 12(c)(3).</p> <p><i>Oppose patent of 160 acres to occupants outside of village lands and oppose provision allowing urban Natives to patent 160 acres after one year's residence.</i></p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
Do Alaska Natives living outside Alaska share in land grant provisions?	No.	No.	No.
Do all beneficiaries of land grants share equally?	All "village" or community lands are granted equally to a maximum of 23,040 acres (the equivalent of one township per community). Individual grants are based upon use and occupancy and would, therefore, vary. Sec. 10(c).	Villages situated in national forests and listed in Sec. 12 are entitled to receive patent of up to 23,040 acres. Other villages listed in Sec. 8 are entitled to receive patent of up to 46,080 acres.	Individual grants are based upon use and occupancy and therefore vary. Village lands are granted with a minimum of four townships (92,160 acres) and a maximum of 500 acres per person, unless total grants of all villages within a region do not total 5 percent of the land area of the region, in which case the village grants are increased proportionately, based upon Native population. Sec. 11(a)(2).
Are there restrictions on alienation?	None except that minerals conveyed, either to the present Moquawkie Reserve, or to the Alaska Native Development Corporation, may not be conveyed to other than the United States or the State of Alaska.	No.	During a ten-year period conveyances and long-term leases must be approved by the Alaska Native Commission. Sec. 13(d).
Are land grants subject to valid, existing rights?	The Act states that all withdrawals and patents of land "shall be subject to valid existing rights of any person...." Sec. 10(j).	Yes, and in addition, conveyances under Sec. 10(d) are also made subject to Section 24 of the Federal Power Act, as amended.	Lands withdrawn for the purpose of grants to villages and regional corporations are subject to valid existing rights. Sec. 10(b)(1).
			<i>The State supports the inclusion of Reserves, other than those used for Native purposes, in lands available for settlement. Lands available should not include those subject to the valid existing rights of homesteaders, mineral lessees or subject to state selection under the Statehood Act.</i>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>Are the selection rights of the state included as valid, existing rights?</p>	<p>The Act is silent on this point. However, in providing for compensation from future revenues it provides for including lands selected by the state...but not patented to the state prior to the effective date of this Act." Sec. 1(a)(5).</p>	<p>Act is silent on this point.</p>	<p>Lands which have been patented to the state are valid, existing rights. By definition public lands include lands which are "selected by, but not yet patented to, the state..." Sec. 3(f).</p>
<p>Are there provisions for the exchange of state selected and Native lands?</p>	<p>No.</p>	<p>No.</p>	<p>Village and regional corporations may exchange lands, interests in lands and water rights with each other, or with the state or the United States. Sec. 13(a).</p>
<p>Who manages the lands after conveyance?</p>	<p>Individual or municipal grantees manage lands received. Mineral interests are conveyed to and to be managed by the Alaska Native Development Corporation.</p>	<p>Grantees.</p>	<p>State pledges to transfer title to those villages which are on or surrounded by state selected land in accordance with formula applicable to federal lands.</p> <p>Grantee, subject to approval of Alaska Native Commission. Sec. 13(d).</p>
<p>What is the status of lands for tax purposes after conveyance?</p>	<p>Intention of the Act is stated as one of achieving settlement without adding to categories of property or institutions enjoying special tax privileges. Sec. 1(b)(3).</p>	<p>Intention of the Act is stated as one of achieving settlement without adding to categories of property or institutions enjoying special tax privileges.</p>	<p>Lands conveyed to Native villages and regional corporations, and mineral rights to which any Native corporation acquires title under Sections 12 or 15, shall be exempt from state and local real property taxes for a period of fifty years after the effective date of the Act. Individually owned real property may be taxed by a Native village incorporated as a governmental unit. Sec. 18(c).</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
Does Alaska Native Allotment Act remain in force?	The Act is silent. It was intent of proposal to repeal the Alaska Native Allotment Act.	Appropriate sections of the Alaska Native Allotment Act are repealed. Sec. 13.	Nothing, except the withdrawal of public lands, repeals or otherwise affects the right of any Native to acquire public lands under the Native Allotment Act of May 17, 1906. Sec. 12(c).
How are other land laws affected?	All lands withdrawn under the Act are to be managed and leased competitively, and the Mineral Leasing Act of February 25, 1920, is amended to the extent it is inconsistent with the provisions of the Act. Sec. 12(2)(2)	Deposits of all minerals included under the mineral leasing laws in all public lands in Alaska are subject to disposition by the Secretary by competitive bidding. Sec. 11. All minerals included under the mineral leasing laws are specifically excluded from withdrawals or conveyances to be made for the benefit of Alaska Natives under the terms of the Act.	<i>Alaska Native Allotment Act should remain in force.</i> Deposits of all minerals included under Mineral Leasing Act are to be disposed of only under competitive bidding procedures. Sec. 14(a)(1).
May claimants before the Indian Claims Commission elect to pursue their claims?	No. The Act is to be regarded as a full and final settlement of claims based upon aboriginal use or occupancy of lands in Alaska, including claims pending before the Indian Claims Commission. Sec. 3(a).	No. The Act is to be regarded as a full and final settlement including claims based upon use or occupancy of land and pending before the Indian Claims Commission. Sec. 4(a).	No. Act is intended as a full settlement and extinguishment of land claims, including those pending before the Indian Claims Commission. Sec. 4
What provisions are made for subsistence use of the land outside of areas conveyed?	Emergency closures of areas threatened with the depletion of subsistence biotic resources may be made by the Secretary upon petition of any individual or the Alaska Department of Fish and Game. Sec. 13.	No provision. (Report states that enlarged land area of two townships for each village will protect the biotic resources of the Natives of these villages.)	One hundred years of subsistence use of public lands, including those hereafter selected by the state, is given, with the provision that patent to third parties terminates the right after 25 years. Sec. 16(a). Emergency closure of areas for subsistence use may be obtained during a 25-year period. Sec. 16(b).

(continued)

QUESTION			
<p>What provisions are made for subsistence use of the land outside of areas conveyed? (Cont'd)</p>	<p>Opposes proposals providing for closure of areas to fishing and hunting for nonresidents of the area.</p>		
<p>Is provision made for the compensation for the present or future extinguishment of aboriginal or "Indian" title?</p>	<p>Past takings and rights extinguished by the Act are to be compensated for by a total payment of \$500 million paid over a twenty-year period. Sec. 7(h).</p>	<p>The grant of 10 percent of the revenues from public domain lands in Alaska is designated compensation for the extinguishment of remaining aboriginal rights in land. Sec. 1(a)(5).</p>	<p>Compensation of \$500 million payable over nine years and 2 percent overriding royalty on revenues derived from sale, lease or disposal of public lands are compensation for lands taken in the past or to which rights and claims are extinguished by the Act. Sec. 5(a)(b), Sec. 14.</p>
<p>Are land grants contiguous to present villages?</p>	<p>Yes. Sec. 10.</p>	<p>Yes. Sec. 10.</p>	<p>First village selections are to be from withdrawn lands, contiguous and in reasonably compact tracts. If withdrawn lands are not sufficient to satisfy a Native village entitlement, the village may select noncontiguous tracts. Sec. 11(a)(3).</p>
<p>What specific provisions are made with respect to Tyonek village?</p>	<p>None. (Departmental Report points out that oil and gas revenues received before the Act by Tyonek Village are over and above shares to be received under the Act.)</p>	<p>The Tanaina Indians of Tyonek Village are given three options: (1) taking under the terms of the Act; (2) establishing a unit of local government which will receive a fee simple grant of the present reserve; or (3) receiving a grant of the present reserve for continued management by the village council. Sec. 15.</p>	<p>Tyonek Village may vote to acquire title to the Moquawkie Reserve, including oil, gas, and other minerals in lieu of land selection rights given other villages under the Act. Sec. 15(c).</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>What specific provisions are made with respect to the Tlingit-Haida settlement?</p>	<p>Tlingit-Haida Indians are included in land provisions and are given the option of relinquishing 2.6 million acres of land claimed under "Indian title" and for which no compensation was awarded in the Tlingit and Haida suit, taking under the proposed Act, and offsetting the Tlingit and Haida judgment of \$7,500,000 against their proportionate share, or retaining the judgment and lands claimed receiving no compensation under the Act. Sec. 14.</p>	<p>The Tlingit and Haida judgment is to be distributed to the Tlingit and Haida Council, claims to uncompensated -for lands are extinguished by the Act, and listed villages receive one township of land each. Sec. 12.</p>	<p>No specific provision.</p>
<p>What specific provisions are made with respect to the Annette Islands Reservation and the Village of Metlakatla?</p>	<p>Tsimshian Indians are excluded from the definition of "Alaska Native" and it was the intent of the bill to confirm the present Annette Islands Reservation. By error in drafting, the reservation is not excluded, and all reserves are revoked. Sec. 16.</p>	<p>Tsimshian Indians are excluded from the definition of "Alaska Native." Sec. 3(b). Annette Islands Reservation is not excepted from the revocation of all reservations and reserves. Sec. 14.</p>	<p>Annette Islands Reserve is granted to the Native Village of Metlakatla in lieu of land selection rights given other villages under the Act. The right to fish for commercial purposes within the reserve for a period of fifty years is also provided. Sec. 15(e). Persons qualifying for enrollment solely because of Tsimshian Indian blood are denied right to share in compensation.</p> <p><i>Present Native reserves, except Metlakatla, should be revoked.</i></p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>B. COMPENSATION</p> <p><u>Who are the beneficiaries of compensation for lands taken?</u></p>	<p>A new corporation, owned by Alaska Natives, authorized under the Act is to be the recipient of compensation. Sec. 7(a). Alaska Natives who qualify under the Act are stockholders in the corporation.</p>	<p>A new corporation, owned by Alaska Natives, and authorized under the Act is to be the recipient of compensation. Sec. 7. Alaska Natives enrolled under the Act are to be issued ten shares of stock each in the corporation. Sec. 7(e).</p>	<p>Alaska Natives as shareholders in village corporations, regional corporations, and a statewide Alaska Native Development Corporation created under the Act are beneficiaries of compensation. Sec. 8(e), Sec. 9(f)(3).</p>
<p><u>What is the amount of compensation?</u></p>	<p>\$100 million is authorized to be appropriated to be paid into an Alaska Native Compensation Fund for later transfer to the Alaska Native Development Corporation. Sec. 11. In addition 10 percent of the proceeds from the disposal of public lands; 10 percent of the revenues from the Outer Continental Shelf bordering Alaska; and 45 percent of the proceeds from the competitive leasing of Naval Petroleum Reserve No. 4 until \$50 million has been recouped by the Treasury, and, thereafter, 90 percent of the proceeds--all limited to a ten-year period--are to be paid into the fund. Sec. 12. From the fund the Treasury is authorized to pay no more than \$100 million each fiscal year during the ten-year period. Sec. 7(h).</p>	<p>\$500 million is authorized to be appropriated by the Congress with payment to the corporation to include \$1 million as paid-in capital; \$24 million the first day of the fiscal year beginning 1971; and \$25 million thereafter for nineteen years. Sec. 7(h).</p>	<p>\$500 million is authorized to be appropriated by the Congress with payment to the Compensation Fund of \$100 million during the fiscal year the Act becomes effective and \$50 million per year during the next eight fiscal years, together with interest at 4 percent per annum on the unpaid balance. Sec. 5(a). In addition, revenues derived from 2 percent overriding royalty on sale, lease, or other disposition of public lands in Alaska are to be paid into the fund. Sec. 5(b), Sec. 14.</p>
<p><u>How is the compensation to be distributed?</u></p>	<p>Corporate dividends are to be distributed to Native stockholders. Funds may be loaned and grants to Native groups, governing bodies, or corporations made. During the initial ten-year period, dividends (continued)</p>	<p>Corporate dividends are to be distributed to Native stockholders. Funds may be loaned and grants to Native groups, governing bodies, or corporations made. Stockholders may not alienate shares of stock until (continued)</p>	<p>Statewide Alaska Native Development Corporation is to retain 5 percent of funds distributed through it to twelve regional corporations proportionately as to Native membership; the regional corporations are to retain 20 percent of (continued)</p>
	<p><i>Supports payment of \$500 million to be paid \$100 million in the first year and \$50 million each succeeding year for eight years. Opposes any royalty or revenue sharing proposal as in conflict with the Statehood Act.</i></p>		

QUESTION FEDERAL FIELD COMMITTEE PROPOSAL DEPARTMENT OF THE INTERIOR PROPOSAL ALASKA FEDERATION OF NATIVES PROPOSAL

How is the compensation to be distributed?  
(Cont'd)

and grants may not exceed more than one-half of the corporation's profits and additions to capital. Sec. 7(f).

June 30, 1991. Sec. 7(e). For twenty years after incorporation the corporation may not issue dividends or make unsecured loans equal to more than one-half of the corporation profits or additions to capital during the previous fiscal year. Sec. 7(f).

the funds received by them and distribute the remainder to village corporations proportionately as to Native membership in each village corporation. Sec. 8(f)(1), Sec. 9(f)(3). Village corporations may not distribute per capita more than 20 percent of monies paid to it by the regional corporation. Sec. 9(k)(3).

How is the amount of Compensation computed?

A sum certain of \$100 million is set for lands taken in the past, and shared revenues of 10 percent for ten years from named sources are earmarked for compensation for present and future extinguishment of land claims.

Departmental report on S. 1830 states that a value of \$1 per acre for the whole of Alaska equals \$375,296,000, which figure correlates to the \$500 million compensation provided over a twenty-year period and discounted at 4 5/8 percent.

*Supports distribution of compensation through statewide, regional, and village corporations in a ratio of: 75 percent to villages; 20 percent to regional corporations, and 5 percent to the statewide corporation.*

No provision.

Is compensation provided for lands and rights taken by the terms of the Act or to be relinquished in the future?

Yes, through shared revenues. Sec. 12.

The compensation provided is in settlement of claims for lands taken in the past and rights and claims extinguished by this legislation. Sec. 4(a).

Yes. The 2 percent overriding royalty on sale, lease, or other disposition of public lands in Alaska is provided as compensation for land rights and claims extinguished by this legislation. Sec. 14.

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p><u>When is compensation to be received?</u></p>	<p>\$1 million is to be paid to the corporation as beginning capital. Sec. 7(b). Up to \$100 million each fiscal year during a ten-year period is to be paid from the fund to the corporation. Sec. 7(h).</p>	<p>\$1 million as paid-in capital upon incorporation of the Alaska Native Development Corporation, \$24 million July 1, 1971, and \$25 million on July 1 for nineteen years thereafter. Sec. 7(b)(h).</p>	<p>\$100 million during the fiscal year the Act becomes effective. Sec. 5(a). Additional sums of \$50 million each fiscal year for the next eight fiscal years. Sec. 5(a). Overriding royalty revenues are to be received in perpetuity. Sec. 14.</p>
<p><u>Are there restrictions on the alienation of assets or shares in corporations?</u></p>	<p>Shares of stock are held in trust by the corporation for the initial ten-year period. Thereafter they are freely alienable. Sec. 7(e).</p>	<p>Yes. Shareholders may not alienate corporate shares until June 30, 1991. Sec. 7(e).</p>	<p>During an initial twenty-year period commencing December 31 of the year in which the Act becomes law, stocks may only be disposed of by will or laws of intestacy and shall only carry voting rights to the new holder, if the new holder also is an Alaska Native. Sec. 9(e)(3)(B). At the end of the twenty-year period new shares of stock without restrictions are to be issued to each stockholder, except that shares of minors may not be alienated. Sec. 9(e)(4).</p>
<p><u>What is the source of funds granted as compensation or in lieu of compensation?</u></p>	<p>Appropriations by the Congress and shared revenues from various Federal lands.</p>	<p>Appropriations by the Congress. Sec. 7(h).</p>	<p>Appropriations by Congress. Sec. 5, and overriding royalties derived from the disposal of public lands. Sec. 14.</p>
<p><u>Is management of money in the same entity as the management of land?</u></p>	<p>The Alaska Native Development Corporation manages mineral rights in lands conveyed as well as monies paid in compensation. Management of the surface of land conveyed, however, remains with Native Village or individual occupant.</p>	<p>No. Surface rights to land and rights to locatable minerals are to be conveyed to individuals and to Native Villages. Compensation is to be paid to the Alaska Native Development Corporation.</p>	<p>Village corporations will manage both lands and money. The Alaska Native Development Corporation is given no land rights. Regional corporations will manage lands selected by them, mineral rights under all patented lands, and money.</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>Are there special provisions for taxation of funds received?</p>	<p>During the initial ten-year period profits of the Alaska Native Development Corporation are not to be "subject to federal or state tax laws." Sec. 7(f). Thereafter the corporation is to be taxed as any other business corporation.</p>	<p>Annual contributions made to the corporation are not subject to federal or state tax laws. Sec. 7(f).</p>	<p>Compensation paid, as well as any interest earned while funds are deposited in the Alaska Native Compensation Fund or are invested by the Secretary, are not subject to federal or state taxation either at the time of receipt or upon distribution to any Native corporation or individual Native. Sec. 18(a).</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>C. MACHINERY</p> <p><u>Who determines beneficiary eligibility and adjudicates conflicts between beneficiaries?</u></p>	<p>The Alaska Native Commission. Sec. 4.</p>	<p>Alaska Native Commission. Sec. 5. (Originally the Department proposed that the Commission be advisory within the Department of the Interior. The Department now supports an independent commission.)</p>	<p>The Alaska Native Commission. Sec. 6(k)(2).</p>
<p><u>How is it created?</u></p>	<p>Appointed by the President. Sec. 4 (a).</p>	<p>Appointed by the President. Sec. 5 (a).</p>	<p>Appointed by the President with the advice and consent of the Senate. Sec. 6(a).</p>
<p><u>What is its structure and term?</u></p>	<p>The Commission is composed of a Chairman, appointed by the President with the advice and consent of the Senate, and four other members also appointed by the President. The Commission is to remain in existence for ten years, and Commission members are to be appointed for five year terms. Sec. 4.</p>	<p>Three members, appointed for three-year terms, are appointed by the President with the advice and consent of the Senate. The Commission is to remain in existence until June 30, 1991. Sec. 5. Duties and responsibilities of the Commission are: determination, under rules and regulations formulated by the Commission, of those who qualify as "Native"; preparation of a roll; appointment of incorporators and approval of the articles of incorporation, in conjunction with the Secretary; determinations of land occupancy and eligibility for patent; and reports to the Congress. Sec. 5.</p>	<p>Composed of five members, not more than three of whom shall be members of the same political party, and at least three of whom shall be Natives of Alaska. Terms of office of members of the Commission shall be five years. The Commission shall remain in existence for twenty years from the date of its first meeting. Sec. 6. Duties and responsibilities are specified in Sec. 6 (k).</p>
			<p><i>The State supports a five-member Commission, three of whom should be Alaska Natives.</i></p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>Who makes policy decisions on the investment and distribution of funds?</p>	<p>Alaska Native Development Corporation. Sec. 7</p>	<p>Alaska Native Development Corporation. Sec. 7</p>	<p>A statewide Native Development Corporation; twelve regional corporations; and each Native village organized as a corporation. Sec. 8, Sec. 9(b), and Sec. 9(j).</p>
<p>What is the legal structure of such management unit or units?</p>	<p>An Alaska corporation whose initial incorporators are to be appointed by the Commission and one of whom is to be the Chairman of the Commission. Elected board of directors of nine is chosen: four by appointment of the President with the advice and consent of the Senate; four elected by enrolled Natives and the Chairman elected by the other board members. Sec. 7(c).</p>	<p>An Alaska corporation which, although neither an agency or establishment of the United States government, for twenty years after its incorporation is subject to the special provisions of the Act. Sec. 7(a). Five initial incorporators, one of whom is the Chairman of the Commission, are to be approved by the Commission and the Secretary and serve as the board of directors until a permanent board of nine members has been selected as follows: five appointed by the President, four of them with the advice and consent of the Senate and one the Chairman of the Commission, and four elected within 180 days after issuance of the certificate of incorporation by stockholders of the corporation. Sec. 5(c).</p>	<p>(a) The Native Development Corporation, whose incorporators are to be appointed by the Commission, and whose board of directors, with the exception of an initial board of five, shall consist of twelve members elected by the entire voting membership. Members serve for four-year terms. Members of the corporation consist of all Natives shown on temporary census rolls and on final membership roll. Sec. 8. The corporation is to be considered a public instrumentality for grants. Sec. 8(h).</p> <p>(b) Twelve regional corporations designated for purposes of grants and loans as "political subdivisions of the state" shall have five incorporators appointed by named regional associations who shall also serve as the initial board of directors. Subsequent board of directors shall be elected in the manner and for the terms prescribed in the articles of incorporation. Each Native enrolled in the region represented by the corporation shall be issued ten shares of stock in the corporation. Sec. 9. Regional corporations are to have all powers vested in business corporations under the laws of the State of Alaska. Sec. 9(1).</p> <p>(continued)</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES RESPONSE
<p>What is the legal structure of such management unit or units? (Cont'd)</p>	<p>During an initial ten-year term the corporation is subject to audit by the General Accounting Office, the stock of its shareholders is held in trust by the corporation and not distributed; the Chairman of the Alaska Native Commission is designated an ex officio member of the board of directors; and during the ten-year period its profits are not to be subject to state or federal taxation. Sec. 7. In addition the corporation is to be considered a "public instrumentality" eligible for grants and contracts to assist natives and native groups. Sec. 7 (g).</p>	<p>Until June 30, 1991, shares of stock in the corporation shall be issued only to Alaska Natives enrolled under the terms of the Act; the corporation is subject to audit by the General Accounting Office; five members of the board of directors shall be appointed by the President; and funds paid to the corporation under Section 7(h) of the Act are not subject to federal or state tax laws. Sec. 7</p>	<p>(c) Each Native village may incorporate as a corporation with articles of incorporation and all amendments thereto subject to the approval of the Alaska Native Commission for a period of ten years. Membership in the corporation and stock ownership shall be made available to all persons shown as members of the village on the final membership roll. Sec. 9(k)(1).</p>
<p>Is it given a special status?</p>	<p>During an initial ten-year term the corporation is subject to audit by the General Accounting Office, the stock of its shareholders is held in trust by the corporation and not distributed; the Chairman of the Alaska Native Commission is designated an ex officio member of the board of directors; and during the ten-year period its profits are not to be subject to state or federal taxation. Sec. 7. In addition the corporation is to be considered a "public instrumentality" eligible for grants and contracts to assist natives and native groups. Sec. 7 (g).</p>	<p>Until June 30, 1991, shares of stock in the corporation shall be issued only to Alaska Natives enrolled under the terms of the Act; the corporation is subject to audit by the General Accounting Office; five members of the board of directors shall be appointed by the President; and funds paid to the corporation under Section 7(h) of the Act are not subject to federal or state tax laws. Sec. 7</p>	<p>(a) The Alaska Native Development Corporation is required to file annual reports with the Secretary and the Commission, with copies to the State Commissioner of Commerce, during a ten-year period. Sec. 8(j)(1). It is not subject to licensing requirements, incorporation fees or other corporate charges, nor to any duty or burden greater than that placed on any other nonprofit membership corporation. Sec. 8(j)(3). The corporation shall be subject to General Accounting Office audit and approval of budget and amendments to its articles of incorporation by the Commission during a ten-year period. Sec. 8(h).</p> <p>(b) Regional corporations are not subject to licensing requirements, incorporation fees or other corporate charges, nor to any state law which places a greater burden on the corporation than that of an ordinary business corporation. Annual reports are to be filed with the Secretary and with the Commission, with copies to the State Commission.</p> <p>(Continued)</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>Is it given a special status? (Cont'd)</p>			<p>Commissioner of Commerce, by the corporation. Sec. 9(i)(2). For ten years the corporation is subject to audit by the General Accounting Office. Sec. 9(h). And during the ten year period budgets are subject to Commission review and amendments of the articles of incorporation are subject to Commission approval.</p>
<p>For how long does such special status continue?</p>	<p>Ten years. Sec. 7.</p>	<p>Until June 30, 1991.</p>	<p>(c) For a period of twenty years membership in village corporations is limited to Natives and their descendants and stock is inalienable. Sec. ((k))(2). Per capita distribution of no more than 20 percent of monies paid to it may be made by the village corporation.</p>
<p>Who makes policy decisions on betterment programs for Alaska Natives?</p>	<p>Alaska Native Development Corporation. Sec. 7.</p>	<p>Alaska Native Development Corporation. Sec. 7</p>	<p>Village articles of incorporation and amendments are subject to Commission approval, and annual budgets are subject to Commission review for a period of ten years. Sec. 9(j).</p>
			<p>Ten years. <i>State supports controls on corporations for twenty years.</i></p>
			<p>All of the corporations designated, as well as twelve affiliated membership corporations to be formed by each regional corporation which shall be devoted to promoting the health, welfare, education, and economic and social well-being of the Natives of the region. Members of the nonprofit corporation are to be shareholders of the regional corporation which organizes it. Sec. 9(f)(2)(A).</p>

QUESTION	FEDERAL FIELD COMMITTEE PROPOSAL	DEPARTMENT OF THE INTERIOR PROPOSAL	ALASKA FEDERATION OF NATIVES PROPOSAL
<p>What is the legal structure of such a management unit or units?</p>	<p>A corporation which during the ten-year period is also regarded as a public corporation. Sec. 7.</p>	<p>A corporation which until June 30, 1991, is regarded as a public corporation.</p>	<p>A non-profit membership corporation. Sec. 9(f)(2)(A).</p>
<p>What are the provisions for budget oversight and audit?</p>	<p>Audit by the General Accounting Office for ten years. Sec. 7(g).</p>	<p>Audit by the General Accounting Office until June 30, 1991. Sec. 7(g).</p>	<p>For ten years all of the corporations are subject to budget review by the Alaska Native Commission and audit by the General Accounting Office.</p>
<p>What are the provisions for Commission review of management decisions?</p>	<p>None stated. However, the Chairman of the Commission serves ex officio as a member of the corporation's board of directors. Sec. 7.</p>	<p>Commission and the Secretary review articles of incorporation of the Alaska Native Development Corporation as well as any amendments to the articles of incorporation. The Chairman of the Commission is designated a member of the Board of Directors of the corporation until June 30, 1991. Sec. 7.</p>	<p>For ten years articles and amendments of articles of incorporation of all regional and village corporations, and regional and village budgets are subject to Commission review. In addition the Commission may hear appeals from decisions of the Alaska Native Development Corporation refusing approval of village plans for the management and expenditure of funds. Sec. 6</p>
<p>What are the provisions for congressional review of adjudicatory and management decisions?</p>	<p>Annual reports to the Congress are provided for from the Secretary of the Interior and the Alaska Native Commission for ten years from the effective date of the Act as to the status of Natives and Native groups in Alaska, summary of actions taken under the Act, and recommendations for continuation or modification of any provision of the Act. Sec. 17.</p>	<p>Annual reports on the implementation of the Act are to be submitted by the Secretary of the Interior and the Alaska Native Commission until June 30, 1991. A joint report of summary of actions, status of Alaska Natives, and recommendations for continuation or modification will be submitted by the Secretary of the Commission at the first session of Congress preceding June 30, 1991. Sec. 15.</p>	<p>The Commission and the Secretary are required to report to the Congress on March 1 of each year during the twenty years following the effective date of the Act as to its implementation. In addition within ninety days from the end of each five-year period a joint report by the Commission and the Secretary as to the status of Natives and their organizations, summary of actions taken, and recommendations is required. Sec. 19.</p>